

ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

(29)
5-28-02
Sc

NORTHLAND INSURANCE COMPANY,

Plaintiff,

Civil Action No.: 01 CV 763

(Hon. Yvette Kane, USDJ)✓

vs.

LINCOLN GENERAL INSURANCE COMPANY,;
J.H.M. ENTERPRISES, INC., VERNICE L.
STATTS, ROBERT E. KRAPF and UTE L.
HETLAND CLARK, as Administrators of the
Estate of Karin Clifford and ROBERT E. KRAPF
and PATRICIA R. CLIFFORD, as Administrators
of the Estate of Robert R. Clifford, SHERRILL J.
MULLIGAN, DENIS A. MULLIGAN,

Defendants.

FILED
HARRISBURG, PA

MAY 24 2002

MARY E. DIANDREA, CLERK
Per [Signature]
Deputy Clerk

**AFFIDAVIT IN SUPPORT OF MOTION OF
NORTHLAND INSURANCE COMPANY
FOR SUMMARY JUDGMENT**

Ira S. Lipsius, being duly sworn, deposes and says:

1. I am a member of the firm of SCHINDEL, FARMAN & LIPSIUS, LLP, counsel to plaintiff Northland Insurance Company ("Northland") in connection with this action. By order of this Court dated, October 19, 2001, I am admitted to practice in the Federal District Court, Middle District of Pennsylvania in connection with this matter. I submit this affidavit in support of the motion of Northland for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. In support of its motion, Northland relies upon the pleadings and upon the transcripts of two depositions, including the exhibits thereto. The Northland's complaint is attached as **Exhibit A** to this affidavit. The Answer of Lincoln General Insurance Company ("Lincoln") is attached as **Exhibit B** to this affidavit.

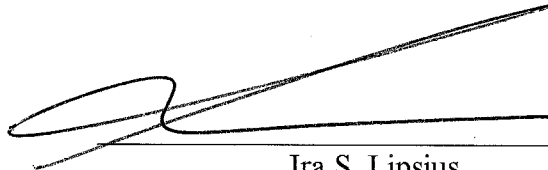
3. This is an action for a declaration of rights involving two automobile liability insurance policies. One of the policies was issued by plaintiff Northland and the other by Lincoln. Relevant portions of the two policies are annexed to Lincoln's answer to Northland's complaint.

4. The sole issue before this court in the instant motion whether Northland and Lincoln General reached a settlement of this declaratory judgment action.

5. Attached hereto as **Exhibit C** is a copy of the entire transcript of the deposition of Northland's adjuster Traci Slane, together with the exhibits marked at that deposition.

6. Attached hereto as **Exhibit D** is a copy of the entire transcript of the deposition of Lincoln's adjuster Michael McGovern, together with the exhibits marked at that deposition.

7. Attached hereto as **Exhibit E** is a copy of Northland's amended answer to Lincoln's counterclaim, which asserts the affirmative defense of "Accord and Satisfaction."



Ira S. Lipsius
Counsel for Northland Insurance Company

Sworn to before me this
23rd day of May, 2002.



Notary Public
LORIENTON N. A. PALMER
Notary Public, State of New York
No. 02PA4983745
Qualified in Nassau County
Commission Expires July 8, 2003

CIVIL COVER SHEET

Exh A

The JS-44 civil cover sheet and the information contained hereon are to be used in accordance with the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.

Do not replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court.

(a) PLAINTIFFS

Northland Insurance Company
1295 Northland Drive
St. Paul, MN 55120-1146

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Ramsey
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

David Ira Rosenbaum, Esquire
Ruthrauff & Armbrust, P.C.
1601 Market Street, 16th Floor
Philadelphia, PA 19103 (215) 567-3675

DEFENDANTS

Lincoln General Insurance Co.
3350 Whiteford Road
York, PA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED (see attached list for other defendants)

ATTORNEYS (IF KNOWN)

Unknown

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | |
|---|---|---|--|
| Citizen of This State | PTF DEF
<input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF DEF
<input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This is a declaratory judgment action premised upon diversity jurisdiction under 28 U.S.C. Section 1332.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Vehicle <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Machinery Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 185 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Theft in Landing <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 861 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Other Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 851 HRA (1995) <input type="checkbox"/> 852 Black Lung (923) <input type="checkbox"/> 853 DRG/DNRW (405(g)) <input type="checkbox"/> 854 SSDI Title XVI <input type="checkbox"/> 855 RSI (405(d)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Arbitration <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Rates/etc. <input type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Radio/Television and Cable Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Consumer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 850 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 610 Motions to Vacate Sentence <input type="checkbox"/> 630 Habeas Corpus <input type="checkbox"/> 635 General <input type="checkbox"/> 640 Death Penalty <input type="checkbox"/> 640 Mandamus & Other <input type="checkbox"/> 650 Other			

VI. ORIGIN

- (PLACE AN X IN ONE BOX ONLY)
- ☐ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/22/00

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

J. H. M. Enterprises, Inc.
1200 Valmont Drive, N.W.
Williamsport, Lycoming County, Pennsylvania.

Vernice Lee Statts
489 East Academy Street
Hughesville, Lycoming County, Pennsylvania.

Sherrill J. Mulligan and Denis A. Mulligan
568 North Locust Street
Hazleton, Luzerne County, Pennsylvania.

Robert E. Krapf
305 East Broad Street
Tamaqua, Schuylkill County, Pennsylvania.

Ute L. Hetland Clark
1022 Villa Ridge Drive
Las Vegas, Clark County, Nevada..

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Northland Insurance Company

CIVIL ACTION

v.

Lincoln General Ins. Co., JHM
Enterprises, Inc. Vernice L.

NO.

Statts, Robert E. Krapf and Ute L. Hetland Clark, et. al.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2441 through §2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 8. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (XX)

06/21/00

(Date)



Attorney-at-law

Northland Insurance Company

Attorney for

(Civ. 660)

12/91

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

NORTHLAND INSURANCE COMPANY,

Plaintiff,

v.

LINCOLN GENERAL INSURANCE COMPANY,
J.H.M. ENTERPRISES, INC., VERNICE L.
STATTS, ROBERT E. KRAPF and UTE L.
HETLAND CLARK, as Administrators of the
Estate of Karin Clifford and ROBERT E. KRAPF
and PATRICIA R. CLIFFORD, as Administrators
of the Estate of Robert R. Clifford, SHERRILL J.
MULLIGAN, DENIS A. MULLIGAN,

Defendants.

C.A. No.

00 - W - 3174

The plaintiff Northland Insurance Company ("Northland"), for its complaint against the Defendants herein, alleges as follows:

THE PARTIES AND JURISDICTION

1. Northland is a Minnesota corporation with its principal place of business in Minnesota.
2. Upon information and belief, Lincoln General Insurance Company is a Pennsylvania corporation with its principal place of business at 3350 Whiteford Road, York, Pennsylvania.
3. Upon information and belief, J.H.M. Enterprises, Inc. ("JHM") is a Pennsylvania corporation with its offices located at 1200 Valmont Drive, N.W., Williamsport, Lycoming County, Pennsylvania, and it engaged in the business of transporting merchandise and products via trailer in the Commonwealth of Pennsylvania.

4. Upon information and belief, Vernice Lee Statts ("Statts") is an adult individual residing at 489 East Academy Street, Hughesville, Lycoming County, Pennsylvania.
5. Upon information and belief, Sherrill J. Mulligan and Denis A. Mulligan, are adult individuals who reside at 568 North Locust Street, Hazleton, Luzerne County, Pennsylvania.
6. Upon information and belief, Robert E. Krapf, is an individual residing at 305 East Broad Street, Tamaqua, Schuylkill County, Pennsylvania, and Ute L. Hetland Clark, is an individual residing at 1022 Villa Ridge Drive, Las Vegas, Nevada.
7. Upon information and belief, Krapf and Clark are the Administrators of the Estate of Karin Clifford, deceased, having been appointed by the Register of Wills of Schuylkill County, Pennsylvania, on November 22, 1995.
8. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332 as the amount in controversy exceed the sum of value of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, and is between citizens of different states and pursuant to 28 U.S.C. § 2201.
9. Venue is appropriate in this forum pursuant to 28 U.S.C. § 1391(a) & (c).

GENERAL ALLEGATIONS

10. On November 17, 1995 Statts was an employee and/or agent of JHM.
11. On November 17, 1995 Statts was dispatched by JHM to pick up a load on behalf of JHM.
12. On November 17, 1995, Statts was driving a 1979 Freightliner with Serial Number CA213HM160222 ("the Tractor") and a 1980 Great Dane Trailer ("the Trailer").

13. On November 17, 1995, the Tractor and Trailer driven by Stats was involved in an accident with a vehicle operated by Robert Clifford and a vehicle operated by Sherill Mulligan ("the Accident").
14. At the time of the Accident, the Tractor and Trailer were owned by Jay McCormick of JHM.
15. At the time of the Accident, Stats was not operating the Tractor or Trailer in the business of Woolever Brothers Transportation Inc. ("Woolever").
16. Krapf and Clark, as administrators of the Estate of Karin Clifford, and Krapf and Patricia R. Clifford as administrator of the Estate of Robert R. Clifford have brought a lawsuit against JHM, Vince Lee Stats, Woolever among others ("the Clifford action") arising out of the accident.
17. The accident resulted in the deaths of Karin Clifford and Robert R. Clifford.
18. The plaintiffs in the Clifford Action have demanded a total of \$2 million.
19. Sherrill J. Mulligan and Denis A. Mulligan have brought a lawsuit against JHM, Vince Lee Stats and Woolever ("the Mulligan action") arising out of the accident.
20. The plaintiffs in the Mulligan action have demanded \$175,000.
21. Lincoln General issued a policy of insurance bearing policy number PAP 1857700495 to JHM that was in effect at the time of the Accident (the "Lincoln General Policy").
22. Northland issued a policy of insurance bearing policy number TF209197 to Woolever that was in effect at the time of the Accident (the "Northland Policy").

COUNT ONE

23. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 19 with the same force and effect as though fully set forth at length herein.
24. The Lincoln General Policy lists the Tractor as a covered auto.
25. The Lincoln General Policy provides coverage for the Tractor.
26. The Lincoln General Policy lists the Trailer as a covered auto.
27. The Lincoln General Policy provides coverage for the Trailer
28. Pursuant to the terms of the Lincoln General Policy, JHM is an insured under the Lincoln policy.
29. Pursuant to the terms of the Lincoln General Policy, Statts is an insured under the Lincoln policy.
30. Pursuant to the terms of the Lincoln General Policy, Woolever is an insured under the Lincoln policy.
31. The Lincoln General Policy provides coverage for the liability, if any, of JHM, Statts and Woolever arising from the Accident.

WHEREFORE, Northland requests a judicial declaration that:

1. Lincoln General provides coverage for JHM, Statts and Woolever in the Clifford Action and the Mulligan Action (collectively "the Underlying Actions").
2. Any coverage obligation owed by the Northland policy in the Underlying Actions is excess to the Lincoln policy and is not triggered until the Lincoln policy is exhausted.

3. Northland is entitled to reimbursement from Lincoln for all costs in defending the Underlying Actions.

COUNT TWO

32. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 28 with the same force and effect as though fully set forth at length herein.
33. The Lincoln Policy and the Northland Policy both contain the following "other insurance" provision:

5. OTHER INSURANCE --PRIMARY AND EXCESS INSURANCE PROVISIONS

- a. This Coverage Form's Liability Coverage is primary for any covered "auto" while hired or borrowed by you and used exclusively in your business as a "trucker" and pursuant to operating rights granted to you by a public authority. This Coverage Form's Liability Coverage is excess over any other collectible insurance for any covered "auto" while hired or borrowed from you by another "trucker". However, while a covered "auto" which is a "trailer" is connected to a power unit, this Coverage Form's Liability Coverage is:
- (1) On the same basis, primary or excess, as for the power unit if the power unit is a covered "auto".
- (2) Excess if the power unit is not a covered "auto".
- b. Any Trailer Interchange Coverage provided by this Coverage Form is primary for any covered "auto".
- c. Except as provided in paragraphs a. and b. above, this Coverage Form provides primary insurance for any covered "auto" you own and excess insurance for any covered "auto" you don't own.
- d. Regardless of the provisions of paragraphs a, b and c above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".

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DENIED, DRIVING WHILE INTOXICATED

- e. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering the same basis.

34. At the time of the Accident, the Tractor and Trailer were being operated in the business of JHM.
35. At the time of the Accident, the Tractor and Trailer were not being operated in the business of Woolever.
36. The Lincoln General Policy provides primary coverage.
37. Any coverage provided by Northland for the Accident is excess to the coverage provided by Lincoln General.

WHEREFORE, Northland requests a judicial declaration that:

1. Lincoln General provides coverage for JHM, Statts and Woolever in the Clifford Action and the Mulligan Action (collectively "the Underlying Actions").
2. Any coverage obligation owed by the Northland policy in the Underlying Actions is excess to the Lincoln policy and is not triggered until the Lincoln policy is exhausted.
3. Northland is entitled to reimbursement from Lincoln for all costs in defending the Underlying Actions.

COUNT THREE

35. Northland has spent \$ 51,769.94 defending Woolever in the Clifford Action and the Mulligan Action.

1. Lincoln General provides coverage for JHM, Statts and Woolever in the Clifford Action and the Mulligan Action (collectively "the Underlying Actions").
2. Any coverage obligation owed by the Northland policy in the Underlying Actions is excess to the Lincoln policy and is not triggered until the Lincoln policy is exhausted.
3. Northland is entitled to reimbursement from Lincoln for all costs in defending the Underlying Actions.

By: 

David Ira Rosenbaum, Esquire (52859)
Ruthrauff & Armbrust, P.C.
1601 Market Street
16th Floor
Philadelphia, PA 19103
(215) 567-3700

Of Counsel:

Ira Lipsius, Esquire
Schindel Farman & Lipsius
225 West 34th Street
New York, NY 10122

Attorneys for Plaintiff Northland Insurance
Company

Dated: June 22, 2000

Judge William H. Yohn, Jr.

The Honorable William H. Yohn, Jr. received an A.B. from Princeton University in 1957, and a J.D. from Yale Law School in 1960. He was an Assistant District Attorney for Montgomery County from 1962 to 1965. Judge Yohn was a member of the Pennsylvania House of Representatives from 1968 to 1980, and a judge in the Montgomery County Court of Common Pleas from 1981 to 1991. He was engaged in private practice from 1961 to 1981. Judge Yohn was appointed United States District Judge on September 16, 1991, and entered into duty on September 23, 1991.

PRELIMINARY GENERAL MATTERS

1. *Correspondence With the Court*

Correspondence with the Court is permitted so long as the initiating attorney has discussed his or her request with other counsel and the letter notes their agreement or disagreement with the writer's request. See also the standard Notice to Counsel which is routinely sent to counsel promptly after assignment of a case to the Judge.

2. *Communications With Law Clerks*

Communications are permitted with the law clerks concerning administrative aspects of cases, but they are discouraged. Counsel may not communicate with the law clerks on the merits of any case, and law clerks are not permitted to render advice to counsel and have no authority to grant continuances or to speak on behalf of the Court.

3. *Telephone Conferences*

Telephone conferences with all counsel are a preferred method of handling disputes concerning discovery, scheduling and requests for extensions of time. However, prior to the telephone conference, initiating counsel should discuss the dispute with other counsel and send the Court a letter setting forth his or her position and the position of opposing counsel.

4. *Oral Arguments and Evidentiary Hearings*

The Judge determines in any given case whether to schedule oral argument or an evidentiary hearing. If counsel prefer oral argument or an evidentiary hearing, they should request it. The scheduling of all such matters is handled by the Judge. Although the Judge does not set aside any certain days for oral arguments or evidentiary hearings, they are usually scheduled at 9:00 a.m. or 4:15 p.m.

DISTRICT COURT JUDGES

5. *Pro Hac Vice Admissions*

The Judge does not have a preference as to how counsel should submit a *pro hac vice* motion to the Court. He will usually grant the motion upon its presentation subject to the right of other counsel to object at a later date.

CIVIL CASES

Pretrial Procedure

1. *Pretrial Conferences*

The Judge regularly conducts a preliminary pretrial conference, and, if requested by all parties, he will conduct settlement conferences. Preliminary pretrial conferences are usually held early in a case. Among the regular agenda items at a preliminary pretrial conference are pleadings, service, joinder, settlement, jurisdictional defects, and the setting of discovery deadlines and a trial date. The Judge uses a standard pretrial order to notify counsel of a conference. He also uses a standard scheduling order pursuant to Rule 16, which is issued at the conclusion of a preliminary pretrial conference. Sample copies of these orders are attached.

Continuances and Extensions

1. *General Policy*

The Judge has a general policy of adhering to originally scheduled dates unless a compelling reason is presented that justifies a change and opposing counsel consents. This policy applies to briefing schedules, oral argument, evidentiary hearings and discovery deadlines. Trial dates will rarely be changed.

2. *Requests for Extensions and Continuances*

Requests for extension of discovery deadlines or trial dates can be made by letter, stating the reasons and noting the agreement or disagreement of all other counsel and the period of delay requested, or by telephone conference with all counsel participating.

General Motion Practice

1. *Oral Argument on Motions*

Normally, oral argument on motions will be scheduled only when it is requested by counsel and the Court believes it would be helpful in its decision-making process. Occasionally, the Court will schedule oral argument without counsel's request.

2. *Reply and Surreply Briefs*

Reply and surreply briefs are discouraged and should be filed only on those rare occasions where the parties wish to draw the Court's attention to controlling authority not previously cited by the parties.

06/27/00 TUE 15:50 FAX 215 561 6661

BENNETT, BRICLIN & SALTZBUR

014

JUDGE WILLIAM H. YOHN, JR.

3. Chambers Copies of Motion Papers

Although not required, the Judge encourages counsel to send a courtesy copy of motion papers to chambers.

Discovery Matters

1. Length of Discovery Period of Extensions

In non-complex litigation, the Judge usually allows 120 days to complete discovery, measured from the entry of appearance by defense counsel. If counsel have been diligent and genuinely need more time for discovery, he will usually grant additional time so long as it does not interfere with the trial date. In arbitration cases, discovery must be completed prior to the arbitration date.

2. Discovery Conferences and Dispute Resolution

The parties should make every effort to resolve discovery disputes without the Court's assistance. The Judge will convene a discovery conference, usually by telephone, to assist if the parties are unable to resolve disputes without the Court's assistance. Where the discovery dispute is complex, a motion should be filed.

3. Confidentiality Agreements

The Judge does not favor confidentiality agreements, and begins consideration of any confidentiality agreement with a presumption that all litigation materials are open to the public. In the event that a confidentiality agreement becomes necessary, the Judge prefers that counsel submit a stipulated order for consideration along with a memorandum setting forth proposed findings to meet the requirements of *Pansy v. Stroudsburg*.

4. Expert Witnesses

Expert witness discovery is covered at the pretrial conference and is the subject of a scheduling order. In most cases, the plaintiff must serve expert reports and/or responses to expert witness discovery before defendant is required to do so. Generally, all expert witness discovery must be completed by the time all other discovery is concluded.

Settlement

1. General Approach to Settlement and Non-jury Cases

The Judge believes that the Court's involvement in settlement conferences is generally helpful and will become involved in jury cases at the request of counsel. In non-jury cases, he will refer settlement negotiations to a Magistrate Judge.

DISTRICT COURT JUDGES**2. Referral of Settlement Negotiations to Another District Court Judge**

The Judge will not refer settlement negotiations to another District Court Judge unless the parties present a compelling reason to do so and the Judge to whom the negotiations are to be referred consents.

Arbitration**1. General Approach to Arbitration Cases**

Preliminary pretrial conferences normally are not held in cases eligible for arbitration, and, except in unusual cases, scheduling orders are not issued. An order will be issued, however, prohibiting discovery after the arbitration hearing except upon order of the Court upon good cause shown as to why the discovery requested could not have been reasonably anticipated and completed prior to the arbitration.

2. Scheduling of Trial De Novo From Arbitration

Upon demand for trial *de novo* after an arbitration award, the case will be scheduled for trial immediately. Plaintiff's pretrial memorandum will be filed within seven (7) days of the filing of the demand for trial *de novo* and defendant's pretrial memorandum within fourteen (14) days thereof.

Proposed Final Pretrial Memoranda**1. Required Form of Pretrial Memoranda**

All pretrial memoranda shall be in accordance with Local Rule of Civil Procedure 21(c) unless the scheduling order provides otherwise in a particular case.

Injunctions**1. Scheduling and Expedited Discovery**

Any injunction matters assigned to the Judge will be promptly listed for a hearing; however, the amount of time available for the hearing may be limited. The scheduling of the injunction hearing will be fixed at an initial conference attended by all counsel. In appropriate cases, expedited discovery will be required.

When plaintiff requests a temporary restraining order, plaintiff's counsel should contact the Judge's secretary for a conference date and serve the motion, complaint and notice of the conference date upon the opposing party and counsel prior thereto unless, for good cause shown, this is impossible.

2. Proposed Findings of Fact and Conclusions of Law

Proposed findings of fact and conclusions of law must be submitted at the start of an injunction hearing.

JUDGE WILLIAM H. YOHN, JR.

Trial Procedure**1. Scheduling of Cases**

Cases are scheduled for a date certain. Generally cases will be set to commence on a Monday. Complex, multi-party cases are specially listed. The Judge will review the cases listed for each week during the latter part of the prior week and determine which will proceed to trial first depending upon the needs of all parties, witnesses and counsel.

2. Conflicts of Counsel

Counsel should notify the Judge of any professional or personal conflicts affecting the trial schedule by telephoning or writing to his courtroom deputy. Opposing counsel must also be notified promptly.

3. Cases Involving Out-of-Town Parties or Witnesses

Trial scheduling does not generally change by the presence of out-of-town parties or witnesses although counsel should notify the Court of any particular problem. The scheduling of witnesses is normally left to counsel.

4. Notetaking by Jurors

Jurors are permitted to take notes.

5. Trial Briefs

The submission of trial briefs is encouraged, particularly in unusual or complex cases and in cases where unusual evidentiary problems are anticipated.

6. Voir Dire

The Judge conducts *voir dire* in civil cases. He permits counsel to submit special questions to him before *voir dire* begins. At the conclusion of his questions, he usually will allow counsel themselves to direct additional questions to the panel or to any individual member of the panel.

7. Side Bars

The Judge permits side-bar conferences, but tries to limit them because they distract the jury and interrupt the flow of the trial.

8. In Limine Motions

In limine motions involving complex legal issues should be presented in sufficient time so that they can be considered in advance of trial. Routine *in limine* motions will ordinarily be disposed of on the first day of trial or during the course of the trial.

9. Examination of Witnesses Out of Sequence

The Judge will generally grant a request by counsel to take the testimony of a witness out of turn for the convenience of the witness subject to objection by opposing counsel.

DISTRICT COURT JUDGES

10. Opening Statements and Summations

No time limits are placed on opening statements or summations by counsel. However, fifteen (15) minutes is usually adequate for an opening statement and thirty (30) to forty-five (45) minutes is usually adequate for a summation. Opening statements are not for argument, but are for presentation of an outline of what the parties intend to prove.

11. Examination of Witnesses or Argument by More Than One Attorney

More than one attorney for a party may examine different witnesses or argue different legal points. Ordinarily, not more than one attorney for a party may examine a single witness or argue the same legal point.

12. Offers of Proof

The attorneys should inquire of each other privately as to anticipated offers of proof regarding any witness or exhibit. If counsel cannot resolve such matters, the Court will rule on them before a witness testifies or an exhibit is offered into evidence and at a time when the jury will not be inconvenienced.

13. Examination of Witnesses Beyond Redirect or Recross

Examination of witnesses beyond redirect and recross will ordinarily not be allowed.

14. Videotaped Testimony

Counsel are required to discuss in advance of trial all objections to the presentation of videotaped testimony and to attempt to resolve all conflicts. If they cannot resolve their disagreements, counsel should present any outstanding disagreements to the Court for decision, well in advance of the offering of such evidence. The videotape should then be edited to eliminate pauses and speed-ups to the maximum extent such final editing is possible. Videotape playback equipment should be brought into the courtroom at the beginning of the morning or afternoon session at which the videotape will be played. It must never block the view of counsel or the jury when not in use.

15. Reading of Material Into the Record

There is no special practice or policy for reading stipulations, pleadings, or discovery material into the record.

16. Preparation of Exhibits

Exhibits must be pre-marked and pre-exchanged. A bench copy of trial exhibits should be provided to the Court on the first day of trial. The trial exhibits should be accompanied by an exhibit list which describes each exhibit.

JUDGE WILLIAM H. YOHN, JR.

17. *Offering Exhibits Into Evidence*

So long as each exhibit is offered and admitted into evidence before it is shown to the jury, the Judge has no particular preference as to when counsel should offer exhibits into evidence. At the conclusion of a party's case-in-chief, counsel should make sure that all exhibits intended to be offered into evidence either have been or are offered into evidence. Counsel who wait until the end of their case-in-chief to offer all of their exhibits into evidence should review them with opposing counsel in advance so that the agreed upon exhibits can be admitted into evidence quickly and the disputed exhibits can be presented to the Court at a time that will not impose on the jury.

18. *Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings*

Motions for judgment as a matter of law and motions for judgment on partial findings may be either oral or written. Oral argument will be permitted if counsel requests it.

19. *Proposed Jury Instructions and Verdict Forms*

Counsel will meet and discuss proposed jury instructions and verdict forms and submit to the Court at least ten (10) business days before the trial date a complete set of agreed upon jury instructions and verdict forms.

If counsel cannot agree, proposed alternatives shall be submitted to the Court at least five (5) business before the trial date.

20. *Proposed Findings of Fact and Conclusions of Law*

Counsel will meet and discuss proposed findings of fact and conclusions of law and submit to the Court at least ten (10) business days before the trial date a complete set of agreed upon proposed findings of fact and conclusions of law.

Jury Deliberations

1. *Written Jury Instructions*

The Judge does not give the jury a copy of the written jury instructions, but may do so in an appropriate case.

2. *Exhibits in the Jury Room*

After the close of the charge, counsel will review the exhibits to determine which exhibits will go out with the jury. Any disputes will be resolved by the Court.

3. *Handling of Jury Requests to Read Back Testimony or Replay Tapes*

If the jury requests that testimony be read back or that tapes be replayed, the Judge will confer with counsel, consider the extent of the jury's request, and, if it is reasonable, comply with it.

DISTRICT COURT JUDGES

4. Availability of Counsel During Jury Deliberations

Counsel should be available on fifteen (15) minutes notice during jury deliberations. As a practical matter, this means that counsel must stay in or very near the courthouse or have an associate present.

5. Taking the Verdict and Special Interrogatories

The courtroom deputy will take the verdict. Special interrogatories are submitted to the jury in most civil cases.

6. Polling the Jury

Polling of the jury is normally unnecessary in a civil case, but will be permitted if requested. Polling of the jury is always allowed in criminal cases.

7. Interviewing the Jury

After a verdict has been recorded and a jury has been discharged, counsel may interview jurors. The jurors are told that they are permitted to talk to counsel and others, if they desire, but they need not do so.

CRIMINAL CASES**1. Oral Argument on Motions**

Oral argument on motions in a criminal case is permitted upon request of counsel.

2. Pretrial Conferences

Pretrial conferences will be held only in complex criminal cases.

3. Voir Dire

The Judge conducts *voir dire* in criminal cases. Counsel may suggest questions to him in advance of *voir dire*. At the conclusion of his questions, he usually will allow counsel to direct additional questions to the panel or of any individual member of the panel.

4. Sentencing Memoranda

The Judge permits and encourages the submission of sentencing memoranda by both the Government and the defense. Letters from others on behalf of the defendant should not be sent to chambers. Rather, such letters should be accumulated by defendant's counsel, shown to the Government's attorney and offered into evidence at the sentencing hearing.

OTHER GENERAL MATTERS

1. At the close of counsel's business with the Court, it is not necessary that counsel request permission to be excused.

2. Copies of appellate briefs should not be sent to the Judge in the event of an appeal.

JUL WILLIAM H. YOHN, JR.

8. The Judge expects punctuality, as well as courtesy, from counsel regarding each other, both in the presence of the court and otherwise. He is of the view that vigorous, robust advocacy need not be rude.

Exh B

2015.67

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

NORTHLAND INSURANCE COMPANY
Plaintiff

v.

No. 1:01-CV-763

LINCOLN GENERAL INSURANCE COMPANY,
J.H.M. ENTERPRISES, INC., VERNICE
L. STATTS, ROBERT E. KRAPP and
UTE L. HETLAND CLARK, as
Administrators of the Estate of
Karin Clifford and ROBERT E. KRAPP
and PATRICIA R. CLIFFORD, as
Administrators of the Estate of
Robert R. Clifford, SHERRILL J.
MULLIGAN, DENIS A MULLIGAN
Defendants

(JUDGE KANE)

FILED
HARRISBURG

AUG 2 2001

MARY E. D'ANDREA, CLERK
Per gfr
DEPUTY CLERK

DEFENDANT LINCOLN GENERAL INSURANCE COMPANY'S ANSWER WITH
AFFIRMATIVE DEFENSES TO THE COMPLAINT, AND CROSS-CLAIM AGAINST
J.H.M ENTERPRISES, INC. AND VERNICE L. STATTS
AND COUNTERCLAIM AGAINST NORTHLAND INSURANCE COMPANY

AND NOW COMES, Defendant Lincoln General Insurance Company,
("Lincoln General"), by and through its attorneys, McNees,
Wallace & Nurick, and makes the following Answer with Affirmative
Defenses to the Complaint, and cross-claim against J.H.M.
Enterprises, Inc. ("JHM") and Vernice L. Statts ("Statts"), and
Counterclaim against Northland Insurance Company ("Northland").

THE PARTIES AND JURISDICTION

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted that the United States District Court for the Middle District of Pennsylvania is the appropriate forum for this action.

GENERAL ALLEGATIONS

10. Denied. It is denied that Statts was an employee of JHM. Prior to November 17, 1995, Statts and JHM had entered into an agreement whereby JHM agreed to sell the 1979 Freightliner to Statts. As of November 17, 1995, JHM was treating Statts as an Owner-Operator of the 1979 Freightliner, and treating Statts as a leased driver. Plaintiff's averment that Statts was an agent of JHM is a conclusion of law which requires no response.

11. Denied. The 1979 Freightliner was permanently leased to Woolever Brothers Transportation, Inc. ("Woolever") on November 17, 1995, and any load to be hauled would have been for Woolever since it maintained exclusive possession, control and use of the 1979 Freightliner on November 17, 1995. Lincoln General cannot admit or deny at this time who provided Statts with instructions as to what he was to do on November 16 and 17,

1995. However, to the extent JHM provided Statts with instructions, JHM was acting on behalf of Woolever.

12. Admitted.

13. Admitted.

14. Admitted in part; Denied in part. It is admitted that the trailer was owned by JHM. As set forth in response to paragraph 10 above, Statts and JHM had entered into an agreement whereby JHM agreed to sell the 1979 Freightliner to Statts. Accordingly, there are factual and legal issues regarding the actual ownership of the Tractor on November 17, 1995, and Lincoln General cannot admit or deny at this time that JHM was the owner of the Tractor.

15. Denied. To the contrary, at the time of the Accident, Statts was operating the Tractor in accordance with a permanent lease agreement between Woolever and JHM, and the Tractor was under Woolever's exclusive possession, control, and use at the time of the Accident.

16. Admitted.

17. Admitted.

18. Admitted that at one point the plaintiffs in the Clifford Action demanded \$2,000,000. However, the Clifford Action has now been settled for a total payment of \$1,225,000.

19. Admitted.

20. Admitted that at one point the plaintiffs in the Mulligan Action demanded \$175,000. However, the Mulligan Action has now been settled for a total payment of \$125,000.

21. Admitted.

22. Admitted.

COUNT ONE

23. Lincoln General incorporates herein by reference its response to paragraphs 1 - 22 above.

24. Admitted.

25. Denied. This paragraph states a conclusion of law which requires no response. To the extent a response is required, Lincoln General avers that a fraud was committed by JHM and Woolever which permits Lincoln General to void coverage for the claim.

26. Admitted.

27. Denied. This paragraph states a conclusion of law which requires no response. To the extent a response is required, Lincoln General avers that a fraud was committed by JHM and Woolever which permits Lincoln General to void coverage for the claim.

28. Admitted.

29. Admitted that Statts would be considered an insured for purposes of the Accident at issue.

30. Admitted that Woolever would be considered an insured for purposes of the Accident at issue to the extent Woolever is liable for Statts' conduct.

31. Denied. This paragraph states a conclusion of law which requires no response. To the extent a response is required, Lincoln General avers that a fraud was committed by JHM and Woolever which permits Lincoln General to void coverage for the claim as to JHM, Woolever, and Statts.

WHEREFORE, Lincoln General demands judgment in its favor and against Northland Insurance Company on the claims asserted in Count One of the Complaint.

COUNT TWO

32. Lincoln General incorporates herein by reference its response to paragraphs 1 - 31 above.

33. Admitted.

34. Denied. To the contrary, at the time of the Accident, the Tractor was being operated pursuant to a permanent lease agreement between JHM and Woolever which provided Woolever with exclusive possession, control and use of the Tractor.

35. Denied. To the contrary, at the time of the Accident, the Tractor was being operated pursuant to a permanent lease agreement between JHM and Woolever which provided Woolever with exclusive possession, control and use of the Tractor.

36. Denied. The Lincoln General Policy provides no coverage because of the fraud committed by Woolever and JHM. In the alternative, the Lincoln General Policy provides excess coverage to Northland's coverage.

37. Denied. Northland's coverage is primary. In the event Lincoln General must provide any coverage, it is excess to Northland. In the alternative, Lincoln General's coverage is co-primary or co-excess with Northland and the two companies must pay their respective shares of the settlement based on the proportion the limits of coverage set forth in respective policies bears to the combined limits of coverage of the two policies.

WHEREFORE, Lincoln General demands judgment in its favor and against Northland Insurance Company on the claims asserted in Count Two of the Complaint.

COUNT III

35. (This is the second paragraph designated 35. For the purposes of consistency, Lincoln General will use the same number as Northland). Denied. Lincoln General is without sufficient information and knowledge to form a belief as to the truth of this averment, and as such, it is denied.

1. Denied. The Lincoln General Policy provides no coverage because of the fraud committed by Woolever and JHM. In the alternative, the Lincoln General Policy provides excess coverage to Northland's coverage.

2. Denied. The Lincoln General Policy provides no coverage because of the fraud committed by Woolever and JHM. In the alternative, the Lincoln General Policy provides excess coverage to Northland's coverage. In the further alternative, Lincoln General's and Northland's coverage is co-primary or co-excess and the two companies must pay their respective shares of the settlement based on the proportion the limits of coverage set forth in respective policies bears to the combined limits of coverage of the two policies.

3. Denied. This paragraph states a conclusion of law which requires no response.

FIRST AFFIRMATIVE DEFENSE

JHM and Woolever committed fraud by misrepresenting to Lincoln General that the Tractor was trip-leased by JHM to

Woolever, and that the alleged trip-lease expired a few hours before the accident. JHM and Woolever committed this fraud in an attempt to impose upon Lincoln General primary coverage for the claims arising out of the Accident. Lincoln General learned for the first time almost two years after the Accident that the purported trip lease was prepared after the Accident, and at the time of the Accident, there was a permanent lease for the Tractor from JHM to Woolever. In accordance with the terms of Lincoln General's Policy, it is entitled to void coverage for all claims arising out of the Accident as a result of this fraud, misrepresentation, and/or concealment. Accordingly, Lincoln General has no obligation to Northland, since it provides no coverage for this claim.

SECOND AFFIRMATIVE DEFENSE

At the time of the Accident, the Tractor was under the exclusive possession, control and use of Woolever in accordance with a permanent lease agreement between JHM and Woolever. Regardless of what Statts was doing at the time of the Accident, since he had just completed delivering a load for Woolever and the Tractor was still under lease to Woolever, Northland provides primary coverage for the claims arising out of the Accident. Since the amount of the settlements paid by Northland is less than the limits of coverage in its policy, it is not entitled to receive anything from Lincoln General, even if it is determined that Lincoln General provides coverage to JHM, Woolever, and/or Statts.

THIRD AFFIRMATIVE DEFENSE

JHM, Statts and Woolever are insureds under Northland's Policy. In accordance with the terms of Northland's Policy, it provides primary coverage for the claims arising out of the Accident since the Tractor was leased by JHM to Woolever at the time of the Accident.

FOURTH AFFIRMATIVE DEFENSE

If it is determined that Lincoln General provides primary coverage to JHM, Woolever, and/or Statts, then Lincoln General's coverage is co-primary with Northland, or if it is determined that Northland provides excess coverage, then Lincoln General's coverage is also excess, and the two companies must pay their respective shares of the settlement based on the proportion the limits of coverage set forth in respective policies bears to the combined limits of coverage of the two policies. Since Northland only paid fifty percent of the settlements, and its proportionate share would be 72.73 percent, Lincoln General would not owe Northland anything, and to the contrary, Northland would owe Lincoln General \$306,855 for the amount paid to settle the claims, not including defense and other costs.

FIFTH AFFIRMATIVE DEFENSE

Northland provides coverage for Woolever. Even if it is determined that Northland does not provide any coverage for JHM and Statts, it is still responsible to pay the full amount of the settlements since Lincoln General does not provide coverage to Woolever, JHM or Statts since the policy is void as a result of the fraud committed by Woolever and JHM. In the alternative, in

the event it is determined that Lincoln General must provide coverage to JHM, Woolever, and/or Statts, Northland should still pay the full amount of the settlements and/or pay its proportionate share of 72.73 percent, depending on whether Northland's coverage is determined to be excess or co-primary.

SIXTH AFFIRMATIVE DEFENSE

Lincoln General has already paid \$675,000, in indemnity payments against its limits of coverage of \$750,000. Accordingly, the most Lincoln General can be held liable to pay Northland is \$75,000.

SEVENTH AFFIRMATIVE DEFENSE

Northland is barred from recovering against Lincoln General as a result of its unclean hands. Northland was a willing participant in the fraud perpetrated upon Lincoln General by JHM and Woolever. Woolever sent Northland a copy of the Permanent Lease on November 17, 1995, after the Accident and before the Trip Lease was prepared. Although Lincoln General does not know if Northland was involved in the decision to prepare the Trip Lease and fraudulently represent that it was in effect at the time of the Accident, Northland was well aware that the Trip Lease was not prepared until after the Accident, and the Permanent Lease was the only agreement in effect at the time of the Accident. Northland concealed this fraud from Lincoln General, and cooperated in the perpetration of this fraud until it was discovered two years after the Accident at the deposition of Hazel Sinclair. As a result of its improper conduct, Northland should not recover anything from Lincoln General.

CROSS-CLAIM AGAINST JHM AND STATTS

PARTIES

1. Defendant/Cross-Claim Plaintiff Lincoln General Insurance Company (hereinafter "Lincoln General") is an insurance company licensed to do business in Pennsylvania with a principal place of business at 3350 Whiteford Road, P.O. Box 3709, York, York County, Pennsylvania 17402-0136.

2. Defendant J.H.M. Enterprises, Inc. (hereinafter "JHM") is a Pennsylvania corporation with its offices located at 1200 Valmont Drive, N.W. Williamsport, Lycoming County, Pennsylvania.

3. Defendant Vernice Lee Statts (hereinafter "Statts") is an adult individual residing at 489 East Academy Street, Hughesville, Lycoming County, Pennsylvania.

JURISDICTION AND VENUE

4. This Court has supplemental jurisdiction over Lincoln General's cross-claim in accordance with 28 U.S.C. §1367(a) in that the cross-claim is related to the Plaintiff's claim.

5. Venue is proper in this Court in accordance with 28 U.S.C. §1391(a) in that a substantial part of the events giving rise to the cross-claim occurred in this District.

FACTUAL BACKGROUND

6. Lincoln General incorporates herein by reference its Answer with Affirmative Defenses to the Complaint.

7. Lincoln General issued a Primary Auto Package insurance policy to JHM, Policy Number PAP 185770 0495 covering the period April 18, 1995 through April 18, 1996 (hereinafter "Lincoln

General Policy"). A true and correct copy of the Lincoln General Policy is attached hereto as Exhibit A.

8. One of the vehicles scheduled under the Policy is a 1979 Freightliner, Serial Number CA213HM160222 (hereinafter "Tractor").

9. The Lincoln General Policy provides \$750,000 in liability coverage for each accident or loss.

10. On March 1, 1990, JHM and Woolever entered into an "Agreement Of Lease Of Motor Vehicle Equipment" (hereinafter "Permanent Lease") whereby JHM leased the Tractor to Woolever. A copy of the Permanent Lease is attached hereto as Exhibit B.

11. The Permanent Lease provides that: "The term of this lease shall begin at 10 A.M. o'clock on 3/1/90, and terminate at the end of thirty (30) days, or at 10 A.M. o'clock 4/1/90, at which time the term of this lease is automatically extended for additional like thirty (30) day periods, unless terminated by either party giving to the other party five (5) days written notice of cancellation."

12. The Permanent Lease provides that: "During the term of this lease, the motor vehicle equipment described herein shall be in the exclusive possession, control and use of Lessee and Lessee hereby assumes complete responsibility for operation thereof."

13. The Permanent Lease provides that: "During the term of this lease, Lessee shall furnish and pay the costs of all public liability, property damage and cargo insurance upon the motor vehicle equipment issued hereunder only when such is operated in the services of Lessee."

14. Prior to June 7, 1995, JHM and Statts entered into an agreement whereby JHM agreed to sell the Tractor to Statts.

15. It is believed that Statts made payments or provided other consideration to JHM for the purchase of the Tractor.

16. Statts became the equitable owner of the Tractor after he agreed to purchase it from JHM and began making payments or providing other consideration to JHM, even though JHM continued to hold title to the Tractor

17. On or about November 16 - 17, 1995, Statts was the owner-operator of the Tractor.

18. On or about November 16, 1995, Statts drove the Tractor, which was pulling a van trailer, to Watkins Glen, New York to pick up a load of salt for Woolever. After the trailer was loaded, Statts returned to his home in Pennsylvania for the night.

19. In the morning of November 17, 1995, Statts drove the tractor and loaded trailer to Ephrata, Pennsylvania in order to deliver the load of salt for Woolever.

20. After delivering the load of salt for Woolever, Statts allegedly began driving toward Berwick, Pennsylvania, where he intended to drop off the van trailer used to haul the load of salt for Woolever, and then pick up another load.

21. As Statts traveled toward Berwick to drop off the van trailer used to haul the load of salt for Woolever, he was involved in an accident on State Route 309 in Rush Township, Schuylkill County, Pennsylvania (hereinafter "Accident").

22. Statts drove into the rear of a vehicle being driven by Robert R. Clifford, and in which Karin Clifford was a passenger.

As a result of the collision, both Robert and Karin Clifford were killed.

23. The Clifford vehicle struck a vehicle driven by Sherrill Mulligan. As a result of the collision between the Clifford vehicle and the Mulligan vehicle, Sherrill Mulligan allegedly suffered personal injuries.

24. There were placards affixed to the Tractor at the time of the Accident which identified Woolever and set forth Woolever's federal and state operating authority number.

25. As a result of the Accident, the Estates of Robert and Karin Clifford filed a suit against Statts, JHM, and Woolever in the Court of Common Pleas of Schuylkill County at Docket No. S-650-1996 (hereinafter "Clifford Action").

26. As a result of the Accident, the Mulligans filed a suit against Statts, JHM, and Woolever in the Court of Common Pleas of Schuylkill County at Docket No. S-1689-1997 (hereinafter "Mulligan Action").

27. Lincoln General defended Statts and JHM in the Clifford Action and Mulligan Action.

28. Northland issued a Truckers insurance policy to Woolever covering the period from September 1, 1995 through September 1, 1996 (hereinafter "Northland Policy"). A copy of the portion of the Northland Policy provided by Northland to Lincoln General is attached hereto as Exhibit C.

29. The Northland Policy provides \$2,000,000 in liability coverage for each accident.

30. Northland defended Woolever in the Clifford Action and Mulligan Action under the Northland Policy.

31. After the Accident, Lincoln General demanded that Northland provide coverage to all of the Defendants.

32. Northland refused to provide a defense to Statts and JHM.

33. Lincoln General and Northland eventually agreed to each advance \$675,000 (a total of \$1,350,000) to settle the Clifford and Mulligan Actions, while reserving all rights to seek reimbursement from the other pending a determination of the coverage issues involved in this case.

34. The Lincoln General Policy expressly states that:

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

35. JHM, Statts and Woolever all qualify as insureds under the Lincoln General policy. JHM is the named insured. Statts is an "insured" under the Lincoln General Policy since he was using the Tractor with JHM's permission. Woolever is an insured since the Lincoln General Policy defines an "insured" to include anyone who is liable for the conduct of an "insured" described in the Lincoln General Policy; and, since Woolever admitted in the underlying actions that it was liable for Statts' conduct, it qualifies as an insured under the Lincoln General Policy.

36. After the Accident, JHM and Woolever represented to Lincoln General that the load of salt hauled for Woolever from

Watkins Glen, New York to Ephrata, Pennsylvania was the subject of a trip lease between JHM and Woolever.

37. JHM and Woolever provided Lincoln General with an "Agreement of Lease Of Motor Vehicle Equipment" dated November 16, 1995, for the Tractor (hereinafter "Trip Lease"). A copy of the Trip Lease is attached as Exhibit "D".

38. The Trip Lease provides that: "The term of this lease shall begin at 4:00 P.M. o'clock on 11/16/95 and terminate at the end of thirty (30) days, or at 8:00 A.M. o'clock 11/17/95, at which time the term of this lease is automatically extended for additional like thirty (30) day periods, unless terminated by either party giving to the other party five (5) days written notice of cancellation."

39. The Trip Lease is signed by Jay McCormick, President of JHM, and Hazel Sinclair, Secretary/Treasurer of Woolever.

40. JHM and Woolever represented on the face of the Trip Lease that it was signed on November 16, 1995.

41. The Trip Lease further provides a certification by Harold Sinclair, a part-owner of Woolever, that on 11/16/95, he "carefully inspected the equipment described herein and that this is a true and correct report of the result of such inspection, and the Lessee's identification placard was displayed on each side of the power unit."

42. In accordance with the Trip Lease, it appeared as if Woolever's lease of the Tractor and van trailer ended prior to the Accident.

43. JHM and Woolever represented to Lincoln General that the Trip Lease was in effect at the time the Accident occurred.

44. JHM and Woolever failed to disclose the existence of the Permanent Lease for the Tractor to Lincoln General until almost two years after the Accident.

45. Jay McCormick, the owner of JHM, and Hazel Sinclair, a part owner of Woolever, were deposed for purposes of the Clifford and Mulligan Actions on November 4, 1997. Jay McCormick testified first. Jay McCormick testified that the load of salt which was hauled by Statts immediately before the Accident was covered by a trip lease. He further testified that the only arrangement he had with Woolever prior to the Accident was through trip leases. Jay McCormick never mentioned the Permanent Lease on the Tractor, or that JHM had entered into permanent leases with Woolever for other vehicles.

46. Hazel Sinclair was deposed immediately after Jay McCormick. She disclosed for the first time that the Trip Lease was not in existence on November 16 - 17, 1995, and that there was a Permanent Lease for the Tractor that had been executed in 1990. The Permanent Lease was produced for the first time at Hazel Sinclair's deposition.

47. At her deposition, Hazel Sinclair testified that she made up the Trip Lease on November 18, 1995, after the Accident had occurred.

48. JHM and Woolever were well aware of the Permanent Lease at the time of the Accident. On November 17, 1995, the day of the Accident and before the Trip Lease was even prepared, Hazel Sinclair of Woolever faxed to Northland a copy of the Permanent Lease. (See fax notation on Exhibit C).

49. Although Northland knew that the Permanent Lease was in effect at the time of the Accident, it concealed this information from Lincoln General and cooperated in JHM and Woolever's misrepresentations to Lincoln General that the Trip Lease was in effect at the time of the Accident.

50. The statements made by JHM and Woolever in the Trip Lease that it was executed on 11/16/95 are false.

51. The statement made by Woolever in the Trip Lease that Harold Sinclair carefully inspected the equipment on 11/16/95 is false.

52. JHM and Woolever knew that the statements made in the Trip Lease as to the date it was executed and the alleged careful inspection of the equipment by Harold Sinclair on 11/16/95 were false.

53. JHM and Woolever attempted to deceive Lincoln General into believing that there was a Trip Lease which had expired a few hours before the Accident, when it knew that there was a Permanent Lease in effect at the time of the Accident which required Woolever to provide liability coverage for the Tractor.

54. JHM's and Woolever's calculated plan to deceive Lincoln General about the nature of the lease of the Tractor was an attempt to impose on Lincoln General primary liability coverage for the Accident when it appropriately belonged with Northland.

55. JHM and Woolever committed a fraud upon Lincoln General, and intentionally concealed and/or misrepresented material facts concerning their interest in the Tractor and the claim for the Accident.

56. The identity of the Permanent Lease was a material fact involving Woolever's, JHM's and Stat's claim for coverage under the Lincoln General Policy, and whether Lincoln General or Northland was required to provide primary coverage.

57. JHM and Woolever intentionally concealed the existence of the Permanent Lease in an attempt to impose on Lincoln General primary liability coverage for the Accident when it appropriately belonged with Northland.

58. Woolever was contractually obligated in accordance with the terms of the Permanent Lease to furnish and pay the costs of all public liability, property damage and cargo insurance upon the Tractor.

59. Lincoln General believes that JHM and Woolever were concerned that Woolever's insurance rates would go up if its insurance carrier was required to provide primary coverage, and developed a calculated plan to shift responsibility for the Accident to JHM's insurance carrier.

60. Lincoln General believes that JHM did not care if its insurance rates went up as a result of its insurance carrier providing primary coverage for the Accident, since JHM did not intend to continue its own trucking insurance after the Policy expired on April 18, 1996, but rather planned to begin hauling exclusively for Woolever as an owner-operator, using Woolever's insurance to cover JHM's operations.

61. JHM's and Woolever's deception and fraud involving their failure to disclose the existence of the Permanent Lease and misrepresentations as to the Trip Lease executed after the Accident were all part of its plan to manipulate insurance

coverage and impose on JHM's liability insurance carrier responsibility for incidents that should have been covered by Woolever's liability insurance carrier.

62. The liability coverage afforded under the Lincoln General Policy is void as to JHM, Woolever and/or Statts for the claims arising out of the Accident as a result of the fraud, intentional concealment, and misrepresentations of material facts committed by JHM and Woolever.

WHEREFORE, Lincoln General Insurance Company respectfully requests that the Court declare that the liability coverage provided under the Lincoln General Policy is void as to JHM and Statts as a result of the fraud, intentional concealment, and misrepresentations of material fact committed by JHM and Woolever, and declare that Lincoln General had no obligation to provide a defense or indemnity to JHM and Statts, for the claims arising out of the Accident.

COUNTERCLAIM AGAINST NORTHLAND

PARTIES

63. Lincoln General Insurance Company is an insurance company licensed to do business in Pennsylvania with a principal place of business at 3350 Whiteford Road, P.O. Box 3709, York, York County, Pennsylvania 17402-0136.

64. Northland Insurance Company is an insurance company licensed to do business in Pennsylvania with its principal place of business at 1295 Northland Drive, St Paul, Minnesota.

JURISDICTION AND VENUE

65. This Court has jurisdiction over Lincoln General's counterclaim in accordance with 28 U.S.C. §1332 in that there is complete diversity of citizenship between Lincoln General and Northland, and in accordance with 28 U.S.C. §1367(a) in that the counterclaim is related to the Plaintiff's claim.

66. Venue is proper in this Court in accordance with 28 U.S.C. §1391(a) in that a substantial part of the events giving rise to the counterclaim occurred in this District.

COUNT I

67. Lincoln General incorporates herein by reference its Answer with Affirmative Defenses to the Complaint, and paragraphs 1 through 62 above of its cross-claim against JHM and Statts as if set forth herein at length.

68. Lincoln General and Northland reserved all rights to seek reimbursement from the other for all indemnity payments made arising out of the Accident pending a determination of the coverage issues involved in this case.

69. To the extent the Court determines that Lincoln General has no obligation to provide coverage to JHM, Woolever and Statts as a result of JHM and Woolever's fraud, intentional concealment, and misrepresentations of material facts, then Woolever is required to reimburse Lincoln General for all indemnity payments made in the amount of \$675,000, since Woolever is solely liable for all indemnity payments if Lincoln General has no obligation.

WHEREFORE, Lincoln General demands judgment in its favor and against Northland for \$675,000, together with interest and costs.

COUNT II

70. Plaintiff incorporates herein by reference its Answer with Affirmative Defenses to the Complaint, and paragraphs 1 through 62 of its cross-claim as if set forth herein at length.

71. In the event the Court does not void the Lincoln General Policy as to JHM, Woolever, and Statts, then Lincoln General claims in the alternative as follows.

72. Woolever is the named "insured" under the Northland Policy.

73. The Northland Policy defines an "insured" to include anyone while using with Woolever's permission a covered "auto" hired by Woolever.

74. The Tractor constitutes a covered "auto" since under Federal Law and the Permanent Lease, Woolever was required to provide liability coverage on the Tractor.

75. Statts qualifies as an "insured" under the Northland Policy since he was using the Tractor with Woolever's permission.

76. The Northland Policy defines an "insured" to include anyone who is liable for the conduct of an "insured" described in the Northland Policy.

77. JHM qualifies as an "insured" under the Northland Policy since the plaintiffs in the Clifford and Mulligan Actions claimed that JHM is liable for Statts' conduct, and Statts is an insured under the Northland Policy.

78. The Northland Policy expressly states:

This Coverage Form's Liability Coverage is primary for any covered "auto" while hired or borrowed by you and used exclusively in your business as a "trucker" and pursuant to operating rights granted to you by a public authority.

79. The Lincoln General Policy expressly states:

This Coverage Form's Liability Coverage is excess over any other collectible insurance for any covered "auto" while hired or borrowed from you by another "trucker".

80. In accordance with the other insurance clauses in both the Northland Policy and the Lincoln General Policy, Northland's coverage for Woolever, Statts, and JHM is primary since the Tractor was hired by Woolever and used exclusively in its business as a "trucker" and pursuant to operating rights granted to Woolever by both the federal and state public authorities.

81. Northland had the primary obligation to defend and indemnify Woolever, Statts and JHM from all claims arising out of the Accident.

82. Northland breached its Policy by refusing to provide primary liability coverage to Statts and JHM.

83. As a result of Northland's refusal to provide primary liability coverage to Statts and JHM, Lincoln General incurred \$91,511.35 in expenses to defend Statts and JHM which should have been incurred by Northland.

84. As a result of Northland's refusal to provide primary liability coverage to Statts and JHM, Lincoln General paid \$675,000 in claims associated with the Accident.

85. Northland is obligated to reimburse Lincoln General for all expenses it has incurred to defend Statts and JHM, and all payments it has made to claimants arising from the Accident.

WHEREFORE, Lincoln General demands judgment in its favor and against Northland for \$766,511.35, together with interest and costs.

COUNT III

86. Plaintiff incorporates herein by reference its Answer with Affirmative Defenses to the Complaint, paragraphs 1 through 62 of its cross-claim, and paragraphs 63 - 85 of its counterclaim as if set forth herein at length.

87. In the event it is determined that Northland does not provide coverage for JHM and Statts, Lincoln General avers in the further alternative.

88. Woolever is liable for Statts' conduct at the time of the Accident.

89. Woolever maintained exclusive possession, control and use of the Tractor at the time of the Accident.

90. As between Woolever and JHM, Woolever should bear primary responsibility for Statts' conduct since Statts was operating the Tractor under Woolever's operating authority and under its exclusive control at the time of the Accident.

91. Since the amount of the payments made by Lincoln General and Northland arising out of the Accident fall within the Northland's limits of coverage of \$2,000,000, Northland should reimburse Lincoln General for the payments it made to settle the Clifford and Mulligan Actions of \$675,000.

WHEREFORE, Lincoln General demands judgment in its favor and against Northland for \$675,000, together with interest and costs.

COUNT IV

92. Plaintiff incorporates herein by reference its Answer with Affirmative Defenses to the Complaint, paragraphs 1 through

62 of its cross-claim, and paragraphs 63 - 92 of its counterclaim as if set forth herein at length.

93. In the event it is determined that Lincoln General and Northland both provide coverage to JHM, Statts, and Woolever, the respective policies both provide primary or excess coverage, and Woolever and JHM bear equal responsibility for Statts' conduct, then Lincoln General avers in the further alternative.

94. The Lincoln General and Northland Policies contain identical provisions on the apportionment of payments if their respective policies cover a claim on an equal basis, either primary or excess. In accordance with this provision, Lincoln General and Northland agreed to apportion payments based on the proportion that the limits of insurance in each policy bears to the combined limits of insurance of the two policies.

95. The limits of insurance in the Lincoln General Policy is \$750,000, and the limits of insurance in the Northland Policy is \$2,000,000, for a combined limits of insurance of \$2,750,000. Lincoln General's proportion of the combined limit is 27.27 percent, and Northland's proportion of the combined limit is 72.73 percent.

96. Lincoln General and Northland each paid \$675,000 to settle the Clifford and Mulligan Actions. To the extent each is responsible for its proportionate share, Lincoln General's share is \$368,145, and Northland's share is \$981,855.

97. Lincoln General paid \$306,855 in excess of its proportionate share to settle the Clifford and Mulligan Actions.

98. Northland claims it spent \$51,769.94 in defending Woolever in the Clifford and Mulligan Actions.

99. Lincoln General spent \$91,511.35 to defend JHM and Statts in the Clifford and Mulligan Actions.

100. The total amount spent by Northland and Lincoln General to defend Woolever, JHM and Statts in the Clifford and Mulligan Actions is \$143,281.29.

101. Lincoln General's proportionate share of the total defense costs is \$39,072.80, and Northland's proportionate share is \$104,208.49.

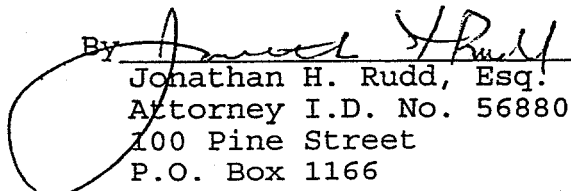
102. Lincoln General paid \$52,438.55 in excess of its proportionate share of defense costs in the Clifford and Mulligan Actions.

103. To the extent it is determined that Lincoln General and Northland must provide coverage on the same basis, either primary or excess, than Lincoln General is entitled to recover from Northland \$359,293.55 in payments it made in excess of its proportionate share.

WHEREFORE, Lincoln General demands judgment in its favor and against Northland for \$359,293.55, together with interest and costs.

Respectfully submitted,

MCNEES WALLACE & NURICK LLC

By 
Jonathan H. Rudd, Esq.
Attorney I.D. No. 56880
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 237-5405

Attorneys for Lincoln General Insurance Company

Dated: 8/2/01

No. PAP 185770 0495

Serial of Number 1857700494

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD, YORK, PENNSYLVANIA 17402

PRIMARY AUTO PACKAGE DECLARATIONS

ITEM ONE:

ISSUED TO:

JHM ENTERPRISES, INC.

1200 VALLAMONT DRIVE, N.W.

CORPORATION

WILLIAMSPORT

PA 17701

POLICY PERIOD:

FROM: 04/18/95

TO: 04/18/96

AGENT OR BROKER:

SUSQUEHANNA INS. ASSOC., INC.

5520

6 E. 18TH STREET

SELINGROVE

PA 17870

KIND OF BUSINESS: TRUCKMAN

LOCATION OF BUSINESS: SAME AS ABOVE

THIS POLICY DOES NOT PROVIDE COLLISION DAMAGE TO RENTAL VEHICLES

ITEM TWO

SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTO Section of the Truckers Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTOS (Entry of one or more symbols from the COVERED AUTOS Section of Truckers Coverage Form show which autos are covered autos.)	--- LIMIT --- THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	PREMIUM
LIABILITY INSURANCE	46,47	\$ 750,000	21,681
PERSONAL INJURY PROTECTION (or equivalent)	46	Separately stated in each PIP endorsement - minus \$ deductible	285
ADDED PERSONAL INJURY PROTECTION (or equivalent)	46	Separately stated in each added PIP endorsement	45
AUTO MEDICAL PAYMENTS		\$ /	
UNINSURED MOTORISTS	46	\$ 35,000	35
UNDERINSURED MOTORISTS (when not incl. in UM Cov)	46	\$ 35,000	10
PHYSICAL DAMAGE COMPREHENSIVE COVERAGE	46	Actual cash value or cost of repair, whichever is less, minus \$(See Schl) ded for each covered auto but no ded applies to loss caused by fire or lightning. See ITEM FOUR For hired or borrowed autos.	2,758
PHYSICAL DAMAGE SPECIFIED CAUSES OF LOSS COVERAGE		Actual cash value or cost of repair, whichever is less, minus \$(See Schl) ded for each covered auto. See ITEM FOUR for hired or borrowed autos.	
PHYSICAL DAMAGE COLLISION COVERAGE	46	Actual cash value or cost of repair, whichever is less, minus \$(See Schl) ded for each covered auto. See ITEM FOUR for hired or borrowed autos.	5,368
PHYSICAL DAMAGE TOWING & LABOR (N/A in CA)		\$ for each disablement of a private passenger auto.	
FORMS AND ENDORSEMENTS CONTAINED IN THIS POLICY AT ITS INCEPTION: SEE ENDORSEMENT SCHEDULE		GENERAL LIABILITY COVERAGE	
		PREMIUM FOR ENDORSEMENTS	1
		MISCELLANEOUS CHARGES *	
		ESTIMATED PREMIUM	30,183

* None at time of issue.

Page 1 of 2

DECLARATIONS -- PRIMARY AUTO RENTAL POLICY

ITEM THREE

SCHEDULE OF COVERED AUTOS YOU OWN - SEE SEPARATE SCHEDULE OF COVERED AUTOS

ITEM FOUR

STATE	ESTIMATED COST OF HIRE FOR EACH STATE	RATE PER EACH \$100 COST OF HIRE	FACTOR	PREMIUM
PA	8,400	13.558		1,139

PHYSICAL DAMAGE - SCHEDULE OF HIRED OR BORROWED COVERED AUTO COVERAGE AND PREMIUM

COVERAGES	LIMIT OF INSURANCE THE MOST WE WILL PAY - DEDUCTIBLE		RATE	MAX. NO. OF AUTOMOBILES IN POSSESSION	COVERAGE DAYS	ESTIMATED PREMIUM
COMPREHENSIVE	Actual Cash Value, Cost of Repair	\$ whichever is less minus \$ ded. for each covered automobile but no deductible applies to loss caused by fire or lightning.				
SPECIFIED CAUSES OF LOSS		\$ whichever is less minus \$ ded. for each covered automobile.				
COLLISION	or	\$ whichever is less minus \$ ded. for each covered automobile.				
TOTAL PREMIUM						

ITEM FIVE

SCHEDULE FOR NON-OWNERSHIP LIABILITY

NAMED INSURED'S BUSINESS	RATING BASIS	NUMBER	PREMIUM
Other than a Social Service Agency Social Service Agency	Number of Employees		\$
	Number of Partners		\$
	Number of Employees		\$
	Number of Volunteers		\$
			\$

ITEM SIX

GENERAL LIABILITY

COVERAGES	LIMIT	TOTAL GENERAL LIABILITY PROVISIONAL ANNUAL POLICY PREMIUM
GENERAL AGGREGATE LIMIT (other than products & completed operations)	\$	
PRODUCT & COMPLETED OPERATIONS AGGREGATE LIMIT	\$	
PERSONAL & ADVERTISING INJURY LIABILITY LIMIT	\$	
EACH OCCURRENCE LIMIT	\$	
FIRE DAMAGE LIMIT (any one fire)	\$	
MEDICAL EXPENSE LIMIT (any one person)	\$	
		\$

The estimated policy premium is based on the exposures you told us you would have when this policy began. We will compute your final premium due when we determine your actual exposures. The estimated policy premium will be credited against the final premium due and you will be billed for the balance, if any. If the estimated total premium exceeds the final premium due you will get a refund. To determine your final premium due we may examine your records at any time during the period of coverage and up to three years afterward. If this policy is issued for more than one year the premium shall be computed annually based on our rates or premiums in effect at the beginning of each year of the policy. Your Policy Period begins 12:01 A.M. standard time at the address shown above.

Countersigned _____

By: _____

(Date)

(Authorized Representative)

Insureds Name: JHM ENTERPRISES, IN

SCHEDULE OF COVERED AUTOS

Page: 1

LIABILITY COVERAGE AFFORDED TO A SCHEDULED POWER UNIT A L S O APPLIES TO A N Y ATTACHED TRAILER O R SEMI-TRAILER S U B J E C T TO ALL CONDITIONS AND OTHER TERMS OF THE POLICY.

LT#	Year	Trade Name	Body Type	Serial Number	Bus Use	GVH GCH	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City
1	1985	WHITE	TRACTOR	1HUYDCFE4FN071239	C	73280	IN	50521	380	PA	81	10	WILLIAMSPORT	
2	1969	FRUEHAUF	TRAILER	-S UNJ325403	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	
3	1969	FRUEHAUF	TRAILER	-S UNJ325404	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	
4	1974	TRIMOBILE	TRAILER	-S K41315	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	
5	1967	FRUEHAUF	TRAILER	-S UNEF290102	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	D#3
6	1969	FRUEHAUF	TRAILER	-S UNJ325401	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	C#
7	1969	FRUEHAUF	TRAILER	-S UNJ325402	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	
8	1974	TRIMOBILE	TRAILER	-S K41316	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	C#
9	1974	TRIMOBILE	TRAILER	-S K41317	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	
10	1974	TRIMOBILE	TRAILER	-S K41318	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	
11	1993	J & L	TANK TRLR	-S 1J9P4AT21P2001084	C	50000	IN	67521	220	PA	81	10	WILLIAMSPORT	Chg#2
12	1988	WHITE	TRACTOR	4V3YZBZZXJN601032	C	80000	IN	50521	220	PA	81	10	WILLIAMSPORT	
14	1986	FREIGHTLIN	TRACTOR	1FUPYDYB99P287269	C	50000	IN	50521	380	PA	81	10	WILLIAMSPORT	#4
15	1981	BUTLER	TRAILER	-S 1TB114028BM452714	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT	
16	1979	F-LINER	TRACTOR	CA213HM160222	C	80000	IN	50521	380	PA	81	10	WILLIAMSPORT	
17	1988	F-LINER	TRACTOR	1FUP2DYBXJH340788	C	50000	IN	50521	380	PA	81	10	WILLIAMSPORT	

180 Fruehauf Trailer # C04304
 19 1980 Great Dane Trailer # B17876 } A#4

Policy # PAP 185770 0495 Insureds Name J. ENTERPRISES, INC.

Page: 2

--- COVERAGE and PREMIUM BREAKDOWN ---

Company Unit Number Insureds Unit Number	UNITS									
	1		2		3		4		5	
	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
LIABILITY	750,000	3840	UNHOOKED	122	UNHOOKED	122	UNHOOKED	122	UNHOOKED	122
Liability	5,000	57	COVERAGE		COVERAGE		COVERAGE		COVERAGE	
Personal Injury Protection	5,000	9								
Additional Benefits										
Medical Expense	5,000	9								
Work Loss										
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Unitive Damage										
Uninsured Motorist	35,000	7								
Underinsured Motorist	35,000	2								
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	63		65		65		65		65	
Rating Factor %										
Group/Trailer Discnt	1 N		1 N		1 N		1 N		1 N	
ITY TOTAL ---->		3,915		122		122		122		122

PHYSICAL DAMAGE	Rating		Rating		Rating		Rating		Rating	
Cost New	30,000		25,000		25,000		25,000		25,000	
Estimated Value	16,000		4,000		4,000		5,000		4,000	
Depreciated Value	10,678		6,371		6,371		6,371		6,371	
Dumping Code	N		N		N		N		N	
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	63		65		65		65		65	
Rating Factor %										
Stated Amount/Zones	Y 00-00		Y 00-00		Y 00-00		Y 00-00		Y 00-00	
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
	Amount		Amount		Amount		Amount		Amount	
Loss of Use	3,000		3,000		3,000		3,000		3,000	
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(Inc. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000	416	1,000	74	1,000	74	1,000	93	1,000	74
Specified Causes of Loss										
Collision	1,000	932	1,000	133	1,000	133	1,000	165	1,000	133
PHYSICAL DAMAGE TOTAL ->		1348		207		207		258		207

Premium to Value %	8.43		5.18		5.18		5.16		5.18	
PREMIUM TOTAL per UNIT ->		5263		329		329		380		329

State Surchg/Tax - Code										
Co. Surchg/Tax - Code										
City Surchg/Tax - Code										
TOTAL per UNIT ->										

Policy # PAP 185770 0495 Insureds Name JIM ENTERPRISES, INC.

Page: 3

--- COVERAGE and PREMIUM BREAKDOWN ---

Company Unit Number Insureds Unit Number	UNITS									
	6		7		8		9		10	
	8		9		10		11		12	
LIABILITY	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
Liability	UNHOOKED	122	UNHOOKED	122	UNHOOKED	122	UNHOOKED	122	UNHOOKED	122
Personl Injury Protection	COVERAGE		COVERAGE		COVERAGE		COVERAGE		COVERAGE	
Additional Benefits										
Medical Expense										
Work Loss										
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage										
UNinsured Motorist										
UNDERinsured Motorist										
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
Property Dmg Deductible										
PD Deductible Factor	65		65		65		65		65	
Rating Code/Line Code										
Rating Factor %	1	N	1	N	1	N	1	N	1	N
Zor Group/Trailer Discnt										
LI										
ITY TOTAL ----->		122		122		122		122		122

	Rating		Rating		Rating		Rating		Rating	
PHYSICAL DAMAGE										
Cost New	20,000		20,000		25,000		25,000		25,000	
Estimated Value	4,000		4,000		5,000		5,000		5,000	
Depreciated Value	5,096		5,096		6,371		6,371		6,371	
Dumping Code	N		N		N		N		N	
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	65		65		65		65		65	
Rating Factor %										
Stated Amount/Zones	Y 00-00		Y 00-00		Y 00-00		Y 00-00		Y 00-00	
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
	Amount		Amount		Amount		Amount		Amount	
Loss of Use	3,000		3,000		3,000		3,000		3,000	
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(- m. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000	73	1,000	73	1,000	93	1,000	93	1,000	93
Specified Causes of Loss										
Collision	1,000	149	1,000	149	1,000	165	1,000	165	1,000	165
PHYSICAL DAMAGE TOTAL ->		222		222		258		258		258

Premium to Value %	5.55		5.55		5.16		5.16		5.16	
PREMIUM TOTAL per UNIT ->		344		344		380		380		380

State Surchg/Tax - Code										
Co. Surchg/Tax - Code										
City Surchg/Tax - Code										
TOTAL per UNIT ->										

Policy # PAP 185770 0495 Insureds Name

1 ENTERPRISES, INC.

Page: 4

----- COVERAGE and PREMIUM BREAKDOWN -----

Company Unit Number Insureds Unit Number	UNITS									
	11		12		14		15		16	
LIABILITY	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
Liability	UNHOOKED	122	750,000	3840	750,000	3840	UNHOOKED	122	750,000	3840
Personal Injury Protection	COVERAGE		5,000	57	5,000	57	COVERAGE		5,000	57
Additional Benefits										
Medical Expense			5,000	9	5,000	9			5,000	9
Work Loss										
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage			35,000	7	35,000	7			35,000	7
UNinsured Motorist			35,000	2	35,000	2			35,000	2
UNDERinsured Motorist										
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	65		63		63		65		63	
Rating Factor %										
Zone Group/Trailer Discnt	1 N		1 N		1 N		1 N		1 N	
L: ITY TOTAL ----->		122		3,915		3,915		122		3,915

PHYSICAL DAMAGE	Rating		Rating		Rating		Rating		Rating	
Cost New	36,312				55,000		32,000		20,000	
Estimated Value	36,312				19,000		10,000		7,500	
Depreciated Value	28,119				21,275		8,155		5,096	
Dumping Code	N				N		N		N	
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	65				63		65		63	
Rating Factor %										
Stated Amount/Zones	Y 00-00				Y 00-00		Y 00-00		Y 00-00	
Owned/Hired	OWNED				OWNED		OWNED		OWNED	
Amount			Amount		Amount		Amount		Amount	
Loss of Use	3,000				3,000		3,000		3,000	
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(Prem. included in comp)										
Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	
Comprehensive	1,000 379			1,000 401		1,000 210		1,000 220		
Specified Causes of Loss										
Collision	1,000 564			1,000 770		1,000 314		1,000 677		
PHYSICAL DAMAGE TOTAL ->		943				1171		524		897

Premium to Value %	2.60			6.16		5.24		11.96
PREMIUM TOTAL per UNIT ->	1065		3915		5086		646	4812

State Surchg/Tax - Code									
Co. Surchg/Tax - Code									
City Surchg/Tax - Code									
TOTAL per UNIT ->									

Policy # PAP 185770 0495 Insureds Name M ENTERPRISES, INC.

Page: 5

--- COVERAGE and PREMIUM BREAKDOWN ---

Company Unit Number Insureds Unit Number	UNITS									
	17									
LIABILITY	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
Liability	750,000	3840								
Personal Injury Protection	5,000	57								
Additional Benefits										
Medical Expense										
Work Loss	5,000	9								
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage										
UNinsured Motorist	35,000	7								
UNDERinsured Motorist	35,000	2								
Owned/Hired	OWNED									
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	63									
Rating Factor %										
Zone Group/Trailer Discnt	1	N								
LIABILITY TOTAL ----->		3,915								

PHYSICAL DAMAGE	Rating		Rating		Rating		Rating		Rating	
Cost New	60,000									
Estimated Value	24,000									
Depreciated Value	27,422									
Dumping Code	N									
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	63									
Rating Factor %										
Stated Amount/Zones	Y 00-00									
Owned/Hired	OWNED									
	Amount		Amount		Amount		Amount		Amount	
Loss of Use	3,000									
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(prem. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000	392								
Specified Causes of Loss										
Collision	1,000	754								
PHYSICAL DAMAGE TOTAL -->		1146								

Premium to Value %	4.78									
PREMIUM TOTAL per UNIT -->		5061								

State Surcho/Tax - Code										
Co. Surcho/Tax - Code										
City Surcho/Tax - Code										
TOTAL per UNIT -->										

Attached to and forming part Policy Number PAP 1857700495 EI LIVE 4/18/95 TO 4/18/96
 ENDORSED 9/19/95
 ISSUED TO: JHM ENTERPRISES, INC.
 1200 VALLAMONT DRIVE, N.H.
 WILLIAMSPORT PA 17701

DRIVER SCHEDULE

The following individuals are operators under this policy.
 Any changes during the policy period should be endorsed.

#	Driver Name	Date of Birth	Operator Number	St Lic	SS No
1	BARTLOW, DALE A	7/13/58	18263871	PA	
2	BROWN, BARRY L	3/01/59	18424697	PA	
3	BROWN, WILLIAM T	12/29/60	19052931	PA	182-52-0275
4	CONNER, LEBERT	1/18/35	08890771	PA	
5	DANLEY, WILLIAM L.	12/03/42	11833013	PA	
6	DILTZ, DALE	11/03/54	16615826	PA	
7	EASTON, GEORGE C	2/06/53	15903700	PA	
8	EVANS, CRAIG EUGENE	4/03/60	18989568	PA	
10	FROME, EMERY	1/20/51	14900911	PA	
12	FUOSS, CLYDE	6/22/57	17750412	PA	
13	FUOSS, MILTON S	6/19/32	07276695	PA	
14	GARLICK, KENNETH RAYMOND	7/19/54	15176214	PA	
16	HILLIS, RICHARD F	8/01/37	09529139	PA	
	LAMEY, DEAN EDWIN	4/17/48	11188837	PA	
	RAAB, JEFFREY	5/16/57	17744809	PA	
19	REYNOLDS, MARTIN J. JR.	12/19/42	13238010	PA	
20	SINCLAIR, HAROLD	7/12/55	16554533	PA	
21	SMITH, JAMES S	3/26/55	23564027	PA	
22	SONES, MICHAEL	12/24/67	21441365	PA	
23	STATIS, VERNICE L	10/18/34	08975318	PA	
24	THOMAS, ARTHUR B. JR.	7/24/34	08132269	PA	
25	WALIZER, GREGORY	3/26/56	15244865	PA	
26	WISE, WILLIAM W.	9/21/29	07942850	PA	
27	WOOLEVER, ARTHUR R.	1/25/53	15716955	PA	
28	WOOLEVER, DONALD	5/15/24	05109262	PA	
29	WOOLEVER, E. COLEMAN	3/31/26	05684093	PA	
30	WOOLEVER, MARK ARTHUR	8/17/51	15345696	PA	
31	WOOLEVER, SCOTT C.	12/16/54	16653787	PA	
33	COCHRAN, CHARLES	7/01/67	21284745	PA	
35	FEEZER, MICHAEL	1/15/55	16547100	PA	
36	HEATH, THOMAS	6/09/51	15282772	PA	
37	HERB, DAVID L SR	4/19/53	16842177	PA	
38	JONES, RALPH	5/24/64	20452332	PA	
39	KIRESKI, JOHN S	1/15/49	15535045	PA	
40	NICHOLS, RICHARD	1/16/54	16394860	PA	
	REED, DAVID	10/08/60	19107192	PA	
	SUMMER, KEITH	11/22/55	16983979	PA	
43	FREDERICKS, RICHARD A	3/22/31	06835773	PA	

COMMERCIAL AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

STATED AMOUNT INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
 BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
 GARAGE COVERAGE FORM
 TRUCKERS COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

SCHEDULE

Designation or Description of Covered "Autos"

UNIT #	YEAR, MAKE AND MODEL	SERIAL NUMBER	COVERAGE	LIMIT OF INSURANCE	POLICY PREMIUM
SEE POLICY SCHEDULE OF COVERED AUTOS					

A. This endorsement provides only those coverages where a premium is shown in the Schedule. Each of these coverages applies only to the vehicles shown as covered "autos".

B. For a covered "auto" described in the Schedule, the PHYSICAL DAMAGE COVERAGE Limit of Insurance is replaced by the following:

C. LIMIT OF INSURANCE

The most we will pay for "loss" in any one "accident" is the least of:

1. The actual cash value of the damaged or stolen property as of the time of the "loss";
2. The cost of repairing or replacing the damaged or stolen property; or
3. The amount shown in the Schedule.

Countersigned by: _____

COMMERCIAL AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

TRUCKERS COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION VI - DEFINITIONS.

SECTION I - COVERED AUTOS

ITEM TWO of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. DESCRIPTION OF COVERED AUTO DESIGNATION SYMBOLS

- | SYMBOL | DESCRIPTION |
|---|-------------|
| 41 = ANY "AUTO". | |
| 42 = OWNED "AUTOS" ONLY. Only the "autos" you own (and for Liability Coverage any "trailers" you don't own while connected to a power unit you own). This includes those "autos" you acquire ownership of after the policy begins. | |
| 43 = OWNED COMMERCIAL "AUTOS" ONLY. Only those trucks, tractors and "trailers" you own (and for Liability Coverage any "trailers" you don't own while connected to a power unit you own). This includes those trucks, tractors and "trailers" you acquire ownership of after the policy begins. | |
| 44 = OWNED "AUTOS" SUBJECT TO NO-FAULT. Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the No-Fault law in the state where they are licensed or principally garaged. | |
| 45 = OWNED "AUTOS" SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those "autos" you own that, because of the law in the state where they are licensed or principally garaged, are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are | |

subject to the same state uninsured motorists requirement.

- 46 = SPECIFICALLY DESCRIBED "AUTOS". Only those "autos" described in ITEM THREE of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in ITEM THREE).
- 47 = HIRED "AUTOS" ONLY. Only those "autos" you lease, hire, rent or borrow. This does not include any "private passenger type auto" you lease, hire, rent or borrow from any member of your household, any of your employees, partners or agents or members of their households.
- 48 = "TRAILERS" IN YOUR POSSESSION UNDER A WRITTEN TRAILER OR EQUIPMENT INTERCHANGE AGREEMENT. Only those "trailers" you do not own while in your possession under a written "trailer" or equipment interchange agreement in which you assume liability for "loss" to the "trailers" while in your possession.
- 49 = YOUR "TRAILERS" IN THE POSSESSION OF ANYONE ELSE UNDER A WRITTEN TRAILER INTERCHANGE AGREEMENT. Only those "trailers" you own or hire while in the possession of anyone else under a written "trailer" interchange agreement. When Symbol "49" is entered next to a Physical Damage Coverage in ITEM TWO of the Declarations, the Physical Damage Coverage exclusion relating to "loss" to a "trailer" in the possession of anyone else does not apply to that coverage.
- 50 = NONOWNED "AUTOS" ONLY. Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "private passenger type autos" owned by your employees or partners or members of their households but only while used in your business or your personal affairs.

B. OWNED AUTOS YOU ACQUIRE OR THE POLICY BEGINS

1. If symbols 41, 42, 43, 44 or 45 are entered next to a coverage in ITEM TWO of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if symbol 46 is entered next to a coverage in ITEM TWO of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. CERTAIN TRAILERS, MOBILE EQUIPMENT AND TEMPORARY SUBSTITUTE AUTOS

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Liability Coverage.

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered auto.
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. "Loss"; or
 - e. Destruction.

SECTION II - LIABILITY COVERAGE

A. COVERAGE

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. WHO IS AN INSURED

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:

(1) The owner or anyone else from whom you hire or borrow a covered "private passenger type auto".

(2) Your employee or agent if the covered "auto" is a "private passenger type auto" and is owned by that employee or agent or a member of his or her household.

(3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your employees, partners, a lessee or borrower or any of their employees, while moving property to or from a covered "auto".

(5) A partner of yours for a covered "private passenger type auto" owned by him or her or a member of his or her household.

c. The owner or anyone else from whom you hire or borrow a covered "auto" that is a "trailer" while the "trailer" is connected to another covered "auto" that is a power unit, or, if not connected:

(1) Is being used exclusively in your business as a "trucker"; and

(2) Is being used pursuant to operating rights granted to you by a public authority.

d. The owner or any else from whom you hire or borrow a covered "auto" that is not a "trailer" while the covered "auto":

(1) Is being used exclusively in your business as a "trucker"; and

(2) Is being used pursuant to operating rights granted to you by a public authority.

e. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

However, none of the following is an "insured":

a. Any "trucker" or his or her agents or employees, other than you and your employees:

(1) If the "trucker" is subject to motor carrier insurance requirements and meets them by a means other than "auto" liability insurance.

(2) If the "trucker" is not insured for hired "autos" under an "auto" liability insurance form that insures on a primary basis the owners of the "autos" and their agents and employees while the "autos" are being used exclusively in the "truckers" business and pursuant to operating rights granted to the "trucker" by a public authority.

b. Any rail, water or air carrier or its employees or agents, other than you and your employees, for a "trailer" if "bodily injury" or "property damage" occurs while the "trailer" is detached from a covered "auto" you are using and:

(1) Is being transported by the carrier; or

(2) Is being loaded on or unloaded from any unit of transportation by the carrier.

2. COVERAGE EXTENSIONS

a. Supplementary Payments. In addition to the Limit of Insurance, we will pay for the "insured":

(1) All expenses we incur.

(2) Up to \$250 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(3) The cost of bonds to release attachments in any "suit" we defend, but only for bond amounts within our Limit of Insurance.

(4) All reasonable expenses incurred by "insured" at our request, including actual loss of earnings up to \$100 a day because of time off from work.

(5) All costs taxed against the "insured" in any "suit" we defend.

(6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

b. Out-of-State Coverage Extensions.

While a covered "auto" is away from the state where it is licensed we will:

(1) Increase the Limit of Insurance for Liability Coverage to meet the limit specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. EXCLUSIONS

This insurance does not apply to any of the following:

1. EXPECTED OR INTENDED INJURY

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. CONTRACTUAL

Liability assumed under any contract or agreement. But this exclusion does not apply to liability for damages:

a. Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or

b. That the "insured" would have in the absence of the contract or agreement.

3. WORKERS' COMPENSATION

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. EMPLOYEE INDEMNIFICATION AND EMPLOYER'S LIABILITY

"Bodily injury" to:

- a. An employee of the "insured" arising out of and in the course of employment by the "insured"; or
- b. The spouse, child, parent, brother or sister of that employee as a consequence of paragraph a. above.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic employees not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract".

5. FELLOW EMPLOYEE

"Bodily injury" to any fellow employee of the "insured" arising out of and in the course of the fellow employee's employment.

6. CARE, CUSTODY OR CONTROL

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. HANDLING OF PROPERTY

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. MOVEMENT OF PROPERTY BY MECHANICAL DEVICE

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a

hand truck) unless the device is attached to the covered "auto".

9. OPERATIONS

"Bodily injury" or "property damage" arising out of the operation of any equipment listed in paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

10. COMPLETED OPERATIONS

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In the exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in paragraphs a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed.
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. POLLUTION

"Bodily injury" or "property damage" arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or

- (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured."

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in paragraphs 6.b. and 6.c of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

- (2) The discharge, dispersal, seep, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. WAR

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

13. RACING

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. LIMIT OF INSURANCE

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined, resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III - TRAILER INTERCHANGE COVERAGE

A. COVERAGE

1. We will pay all sums you legally must pay as damages because of "loss" to a "trailer" you don't own or its equipment under:

- a. Comprehensive Coverage. From any cause except:

- (1) The "trailer's" collision with another object; or
- (2) The "trailer's" overturn.

- b. Specified Causes of Loss Coverage. Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the "trailer".

- c. Collision Coverage Caused by:

(1) The "trailer" collision with another object

(2) The "trailer's" overturn.

2. We have the right and duty to defend any "insured" against a "suit" asking for these damages. However, we have no duty to defend any "insured" against a "suit" seeking damages for any "loss" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

3. COVERAGE EXTENSIONS

Supplementary Payments. In addition to the Limit of Insurance, we will pay for you:

- a. All expenses we incur.
- b. The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance.
- c. All reasonable expenses incurred at our request, including actual loss of earnings up to \$100 a day because of time off from work.
- d. All costs taxed against the "insured" in any "suit" we defend.
- e. All interest on the full amount of any judgment that accrues after entry of the judgment; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

B. EXCLUSIONS

- 1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".
 - a. Nuclear Hazard.

SECTION IV - PHYSICAL DAMAGE COVERAGE

A. COVERAGE

- 1. We will pay for "loss" to a covered "auto" or its equipment under:
 - a. Comprehensive Coverage. From any cause except:
 - (1) The covered "auto's" collision with another object; or
 - (2) The covered "auto's" overturn.
 - b. Specified Causes of Loss Coverage. Caused by:

(1) The explosion of any weapon emitting atomic fission or fusion; or

(2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War or Military Action.

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for loss of use.

3. Other Exclusions.

We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

a. Wear and tear, freezing, mechanical or electrical breakdown.

b. Blowouts, punctures or other road damage to tires.

C. LIMIT OF INSURANCE AND DEDUCTIBLE

The most we will pay for "loss" to any one "trailer" is the least of the following amounts minus any applicable deductible shown in the Declarations:

- 1. The actual cash value of the damaged or stolen property at the time of the "loss".
- 2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
- 3. The Limit of Insurance shown in the Declarations.

(1) Fire, lightning or explosion;

(2) Theft;

(3) Windstorm, hail or earthquake;

(4) Flood;

(5) Mischief or vandalism; or

(6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

c. Collision Coverage. Caused by:

(1) The covered "auto's" collision with another "auto", or

(2) The covered "auto's" overturn.

2. Towing - Private Passenger Autos.

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the "private passenger type" is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage - Hitting a Bird or Animal - Falling Objects or Missiles.

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

a. Glass breakage;

b. "Loss" caused by hitting a bird or animal; and

c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. Coverage Extension. We will also pay up to \$15 per day to a maximum of \$450 for transportation expense incurred by you because of the total theft of a covered "auto" of the "private passenger type". We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

B. EXCLUSIONS

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard.

(1) The explosion of any weapon employing atomic fission or fusion; or

(2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War or Military Action.

(1) War, including undeclared or civil war;

(2) Warlike action by a military

for including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any of the following:

a. Any covered "auto" while in anyone else's possession under a written trailer interchange agreement. But this exclusion does not apply to a loss payee, however if we pay the loss payee; you must reimburse us for our payment.

b. Any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for any such contest or activity.

c. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

d. Equipment designed or used for the detection or location of radar.

e. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.

f. Any accessories used with the electronic equipment described in paragraph e. above.

Exclusions 2.e. and 2.f. do not apply to:

a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or

b. Any other electronic equipment that is:

(1) Necessary for the normal operation of the covered "auto"

or the monitor of the covered "auto's" operating system; or

- (2) An integral part of the same unit housing any sound reproducing equipment described in a. above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

3. Other Exclusions

We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

- a. Wear and tear, freezing, mechanical or electrical breakdown.
- b. Blowouts, punctures or other road damage to tires.

C. LIMITS OF INSURANCE

The most we will pay for "loss" in any one "accident" is the lesser of:

1. The actual cash value of the damaged or stolen property as of the time of "loss"; or
2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

D. DEDUCTIBLE

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION V - TRUCKERS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. LOSS CONDITIONS

1. APPRAISAL FOR PHYSICAL DAMAGE LOSS

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the accident or "loss". Include:

- (1) How, when and where the "accident" or "loss" occurred;
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

- b. Additionally, you and any other involved "insured" must:

- (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
- (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit".
- (4) Authorize us to obtain medical records or other pertinent information.
- (5) Submit to examination at our expense, by physicians of our choice, as often as we reasonably require.

- c. If there is a "loss" to a covered "auto" or its equipment you must also do the following:

- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
- (4) Agree to examination under oath at our request and give us a statement of your answers.

3. LEGAL ACTION AGAINST

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. LOSS PAYMENT - PHYSICAL DAMAGE COVERAGES

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. GENERAL CONDITIONS**1. BANKRUPTCY**

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligation under this Coverage Form.

2. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

3. LIBERALIZATION

If we revise this Coverage Form to provide more coverage without additional

premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. NO BENEFIT TO BAILEE - PHYSICAL DAMAGE COVERAGES

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. OTHER INSURANCE - PRIMARY AND EXCESS INSURANCE PROVISIONS

a. This Coverage Form's Liability Coverage is primary for any covered "auto" while hired or borrowed by you and used exclusively in your business as a "trucker" and pursuant to operating rights granted to you by a public authority. This Coverage Form's Liability Coverage is excess over any other collectible insurance for any covered "auto" while hired or borrowed from you by another "trucker". However, while a covered "auto" which is a "trailer" is connected to a power unit, this Coverage Form's Liability Coverage is:

- (1) On the same basis, primary or excess, as for the power unit if the power unit is a covered "auto".
- (2) Excess if the power unit is not a covered "auto".

b. Any Trailer Interchange Coverage provided by this Coverage Form is primary for any covered "auto".

c. Except as provided in paragraphs a. and b. above, this Coverage Form provides primary insurance for any covered "auto" you own and excess insurance for any covered "auto" you don't own.

d. For Hired Auto Physical Damage coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

e. Regardless of the provisions of paragraphs a., b. and c. above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".

f. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. PREMIUM AUDIT

a. The estimated premium for this Coverage Form is based on the exposures you told us you have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The cover territory is:

- a. The United States of America;
- b. The territories and possessions of the United States of America;
- c. Puerto Rico; and
- d. Canada.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION VI - DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads but does not include "mobile equipment".

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.

D. "Covered pollution cost or expense" means any cost or expense arising out of:

- 1. Any request, demand or order; or
- 2. Any claim or "suit" by or on behalf of a governmental authority demanding.

that the "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:

- (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered "auto";

- (2) Otherwise in the course of transit by or on behalf of the "insured";

- (3) Being stored, disposed of, treated or processed in or upon the covered "auto"; or

- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

- (2) The "bodily injury", "property damage" or "covered pollution

cost or expense does not arise out of the operation of any equipment listed in paragraph 6.b. or 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

(2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

E. "Insured" means any person or organization qualifying as an insured in the Who is an Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

F. "Insured Contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
6. That part of any contract or agreement, entered into, as part of your business, pertaining to the rental or lease, by you or any of your employees, of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your employees to pay for "property damage" to any "auto" rented or leased by you or any of your employees.

An "insured contract" does not include that part of any contract or agreement:

a. That indemnifies any person or organization for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or

b. That pertains to the loan, lease or rental of an "auto" to you or any of your employees, if the "auto" is loaned, leased or rented with a driver; or

c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

G. "Loss" means direct and accidental loss or damage.

H. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described in paragraphs 1., 2., 3., or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in paragraphs 1., 2., 3., or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
 - a. That indemnifies any person or organization for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or
 - b. That pertains to the loan, lease or rental of an "auto" to you or any of your employees, if the "auto" is loaned, leased or rented with a driver; or
 - c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

- a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.
- I. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- J. "Private passenger type" means a private passenger or station wagon type "auto" and includes an "auto" of the pickup or van type if not used for business purposes.
- K. "Property damage" means damage to or loss of use of tangible property.
- L. "Suit" means a civil proceeding in which:
- 1. Damages because of "bodily injury" or "property damage"; or
 - 2. A "covered pollution cost or expense", to which this insurance applies, are alleged.
- "Suit" includes:
- a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" submits with our consent.
- M. "Trailer" includes semitrailer or a dollie used to convert a semitrailer into a trailer. But for Trailer Interchange Coverage only, "trailer" also includes a container.
- N. "Trucker" means any person or organization engaged in the business of transporting property by "auto" for hire.

COMMERCIAL AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS OF USE COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
 TRUCKERS COVERAGE FORM
 BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

A. COVERAGE/CONDITIONS

1. This endorsement applies to covered "autos" for which collision coverage is provided.
2. This coverage begins 14 days after you notify us.
3. We will pay you for your loss of use in the event a covered "auto" is disabled and removed from service, for a period greater than 14 days, as a result of a collision "loss".
4. This coverage will terminate when the covered "auto" is returned to service. We shall determine when the covered "auto" is returned to service.
5. Payment will be made if, and only if, the "loss" exceeds the collision deductible.
6. Our payment to you, per covered "auto", will be calculated on a daily basis at a rate equal to 1/90 of the MAXIMUM LIMIT OF COVERAGE. The most we will pay you, per covered "auto", is the limit of coverage for the period of coverage indicated below:

MAXIMUM LIMIT OF COVERAGE
 \$3,000

MAXIMUM PERIOD OF COVERAGE
 90 days

B. EXCLUSIONS

1. This insurance does not apply to any of the following:
 - a. Any covered "auto" with a gross vehicle weight (GVW) under 20,001 pounds.
 - b. Any NONOWNED "AUTOS"
(See coverage form)
 - c. ANY HIRED "AUTOS"
(See coverage form)
 - d. Any "TRAILERS" IN YOUR POSSESSION UNDER A WRITTEN TRAILER OR EQUIPMENT INTERCHANGE AGREEMENT.
 - e. Any of YOUR "TRAILERS" IN THE POSSESSION OF ANYONE ELSE UNDER A WRITTEN TRAILER INTERCHANGE AGREEMENT.
2. This insurance does not apply if you fail to exercise due diligence and dispatch to repair or replace the covered "auto".
3. This insurance does not apply if you receive any loss of income payment from us as a result of "bodily injury".

DESCRIPTION OF COVERED AUTOS

Refer to your SCHEDULE OF COVERED AUTOS.

COMMERCIAL AUTO

**ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR
AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE LIABILITY UNDER
SECTION 10927, TITLE 49 OF THE UNITED STATES CODE**

The policy to which this endorsement is attached is an automobile bodily injury and property damage liability policy and is amended to assure compliance by the insured as a motor carrier of passengers or property, with Section 10927, Title 49 of the United States Code and the pertinent rules and regulations of the Interstate Commerce Commission.

In consideration of the premium stated in the policy to which this endorsement is attached, the Company agrees to pay, within the limits of liability prescribed herein, any final judgment recovered against the insured for bodily injury to or death of any person, or loss of or damage to property of others (excluding injury to or death of the insured's employees while engaged in the course of their employment, and property transported by the insured, designated as cargo), resulting from negligence in the operation, maintenance, or use of motor vehicles under certificate or permit issued to the insured by the Interstate Commerce Commission, or otherwise in interstate or foreign commerce subject to Subchapter II, Chapter 105, Subtitle IV of Title 49 of the United States Code, regardless of whether or not such motor vehicles are specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized by the Interstate Commerce Commission to be served by the insured or elsewhere.

It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement, by the insured, shall relieve the Company from liability or from the payment of any final judgment, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the Company, and the insured agrees to reimburse the Company for any payment made by the Company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the Company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is understood and agreed that, upon failure of the Company to pay any final judgment recovered against the insured as prescribed herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the Company to compel such payment.

The Company's liability for the amounts provided in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the Company for the payment of final judgments resulting from any other accident.

The liability of the Company on each motor vehicle shall be the limits prescribed in 49 CFR 1043.2(b)(1), governing minimum amounts of insurance.

This endorsement may not be canceled without notification to the Commission. Such cancellation may be effected by the Company or the insured giving thirty (30) days' notice in writing to the Interstate Commerce Commission at its office in Washington, D.C., said thirty (30) days' notice commencing from the date notice is received by the Commission.

Issued to _____ of _____
Dated at _____ this _____ day of _____, 19____
Amending Policy No. _____ Effective Date _____
Name of Insurance Company _____

Countersigned by _____
Authorized Company Representative

COMMERCIAL AUTO

FORM F

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE ENDORSEMENT

It is agreed that:

1. The certification of the policy, as proof of financial responsibility under the provisions of any State motor carrier law or regulations promulgated by any State Commission having jurisdiction with respect thereto, amends the policy to provide insurance for automobile bodily injury and property damage liability in accordance with the provisions of such law or regulations to the extent of the coverage and limits of liability required thereby; provided only that the insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except by reason of the obligation assumed in making such certification.
2. The Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance has been filed with the State Commission(s) indicated below.
3. This endorsement may not be cancelled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured giving thirty (30) days' notice in writing to the State Commission with which such certificate has been filed, such thirty (30) days' notice to commence to run from the date the notice is actually received in the office of such Commission.

X -- INDICATES STATE COMMISSIONS WITH WHOM UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE HAS BEEN FILED

ALABAMA		ILLINOIS		MONTANA		RHODE ISLAND	
ALASKA		INDIANA		NEBRASKA		SOUTH CAROLINA	
ARIZONA		IOHA		NEVADA		SOUTH DAKOTA	
ARKANSAS		KANSAS		NEW HAMPSHIRE		TENNESSEE	
CALIFORNIA		KENTUCKY		NEW JERSEY		TEXAS	
COLORADO		LOUISIANA		NEW MEXICO		UTAH	
CONNECTICUT		MAINE		NEW YORK		VERMONT	
DELAWARE		MARYLAND		NORTH CAROLINA		VIRGINIA	
DISTRICT OF COLUMBIA		MASSACHUSETTS		NORTH DAKOTA		WASHINGTON	
FLORIDA		MICHIGAN		OHIO		WEST VIRGINIA	
GEORGIA		MINNESOTA		OKLAHOMA		WISCONSIN	
HAWAII		MISSISSIPPI		OREGON		WYOMING	
IDAHO		MISSOURI		PENNSYLVANIA	X		

Attached to and forming part of policy No. PAP 1857700495issued by LINCOLN GENERAL INSURANCE COMPANY, herein calledCompany, of YORK, PA 17402to JHM ENTERPRISES, INC. of WILLIAMSPORT, PADated at YORK, PA 17402 this 27 day of APRIL, 1995Countersigned by _____
Authorized Representative

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured.

However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately, to each accident, and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

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The Motor Carrier Act of 1980 required limits of financial responsibility according to the type of carriage and commodity transported by the motor carrier. It is the MOTOR CARRIER'S obligation to obtain the required limits of financial responsibility. The SCHEDULE OF LIMITS SHOWN BELOW DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.

SCHEDULE OF LIMITS
Public Liability

Type of Carriage	Commodity Transported	Minimum Insurance
(1) For-hire (in interstate or foreign commerce).	Property (nonhazardous).	\$ 750,000
(2) For-hire and Private (in interstate, foreign, or intrastate commerce).	Hazardous substances as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A or B explosives, poison gas (Poison A), liquefied compressed gas or compressed gas, or highway route controlled quantity radioactive materials as defined in 49 CFR 173.403.	5,000,000
(3) For-hire and Private (in interstate or foreign commerce; in any quantity) or (in intrastate commerce in bulk only)	Oil listed in 49 CFR 172.101; hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	1,000,000
(4) For-hire and Private (in interstate or foreign commerce).	Any quantity of Class A or B explosives, any quantity of poison gas (Poison A), or highway route controlled quantity radioactive materials as defined in 49 CFR 173.403.	5,000,000

NOTE: The type of carriage listed under (1), (2) and (3) applies to vehicles with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles with a gross vehicle weight rating of less than 10,000 pounds.

COMMERCIAL AUTO

Attached to and forming a part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

PENNSYLVANIA BASIC FIRST PARTY BENEFIT

For a covered "auto" licensed or principally garaged in ; or "garage operations" conducted in, Pennsylvania, this endorsement modifies insurance provided under the following:

BUSINESS AUTO NON-TRUCKING COVERAGE FORM.
 BUSINESS AUTO COVERAGE FORM
 GARAGE COVERAGE FORM
 TRUCKERS COVERAGE FORM

SCHEDULE

Benefits	Limit of Liability (per insured)
Medical Expense Benefits	Up to \$ 5,000

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. COVERAGE

We will pay the Basic First Party Benefit in accordance with the "Act" to or for an "insured" who sustains "bodily injury" caused by an "accident" arising out of the maintenance or use of an "auto."

BENEFITS

Subject to the limit shown in the Schedule or Declarations, the Basic First Party Benefit consists of Medical Expense Benefits. These benefits consist of reasonable and necessary medical expenses incurred for an "insured's":

1. Care;
2. Recovery; or
3. Rehabilitation.

This includes remedial care and treatment rendered in accordance with a recognized religious method of healing.

Medical expenses will be paid if incurred within 18 months from the date of the "accident" causing "bodily injury." If within 18 months from the date of the "accident" causing "bodily injury" it is ascertainable with reasonable medical probability that further expenses may be incurred as a result of the bodily injury, medical expenses will be paid without limitation as to the time such further expenses are incurred.

B. WHO IS AN INSURED

1. You.

2. If you are an individual, any "family member."

3. Any person while "occupying" a covered "auto."

4. Any person while not "occupying" an "auto" if injured as a result of an "accident" in Pennsylvania involving a covered "auto."

If a covered "auto" is parked and unoccupied, it is not an "auto" involved in an "accident" unless it was parked in a manner as to create an unreasonable risk of injury.

C. EXCLUSIONS

We will not pay First Party Benefits for "bodily injury:"

1. Sustained by any person injured while intentionally causing or attempting to cause injury to himself or herself or any other person.
2. Sustained by any person while committing a felony.
3. Sustained by any person while seeking to elude lawful apprehension or arrest by a law enforcement official.
4. Sustained by any person while maintaining or using an "auto" knowingly converted by that person. However, this exclusion does not apply to:
 - a. You; or
 - b. any "family member."

5. Sustained by any person at the time of the "accident."
 - a. Is the owner of one or more currently registered "autos" and none of those "autos" is covered by the financial responsibility required by the "Act;" or
 - b. is "occupying" an "auto" owned by that person for which the financial responsibility required by the "Act" is not in effect.
6. Sustained by any person maintaining or using an "auto" while located for use as a residence or premises.
7. Sustained by a pedestrian if the "accident" occurs outside of Pennsylvania. This exclusion does not apply to:
 - a. You; or
 - b. Any "family member."
8. Sustained by any person while "occupying:"
 - a. A recreational vehicle designed for use off public roads; or
 - b. A motorcycle, moped or similar type vehicle.
9. Caused by or as a consequence of:
 - a. discharge of a nuclear weapon (even if accidental);
 - b. War (declared or undeclared);
 - c. Civil war;
 - d. Insurrection; or
 - e. Rebellion or revolution.
10. From or as a consequence of the following whether controlled or uncontrolled or however caused:
 - a. nuclear reaction;
 - b. radiation; or
 - c. radioactive contamination.

D. LIMIT OF INSURANCE

1. Regardless of the number of covered "autos," premiums paid, claims made, "autos" involved in the "accident" or insurers providing First Party Benefits, the most we will pay to or for an "insured" as the result of any one "accident" is the limit shown in the Schedule or in the Declarations.
2. Any amount payable under First Party Benefits shall be excess over any sums paid, payable or required to be provided under any workers' compensation law or similar law.

E. CHANGES IN CONDITIONS

The CONDITIONS are changed for FIRST PARTY BENEFITS as follows:

1. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US does not apply.

2. The following CONDITIONS are added:

NON-DUPLICATION OF BENEFITS

No person may recover duplicate benefits for the same expenses or loss under this or any other similar automobile coverage including self-insurance.

PRIORITIES OF POLICIES

We will pay First Party Benefits in accordance with the order of priority set forth by the "Act." We will not pay if there is another insurer at a higher level of priority. The "First" category listed below is the highest level of priority and the "Fourth" category listed below is the lowest level of priority. The priority order is:

First - The insurer providing benefits to the "insured" as a named insured.

Second - The insurer providing benefits to the "insured" as a family member who is not a named insured under another policy providing coverage under the "Act."

Third - The insurer of the "auto" which the "insured" is "occupying" at the time of the "accident."

Fourth - The insurer providing benefits on any "auto" involved in the "accident" if the "insured" is:

- a. Not "occupying" an "auto;" and
- b. not provided First Party Benefits under any other policy.

If two or more policies have equal priority within the highest applicable number in the priority order:

1. The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible;
2. If we are the insurer against whom the claim is first made, our payment to or for an "insured" will not exceed the applicable limit shown in the Schedule or Declarations;
3. The insurer thereafter is entitled to recover pro rata contribution from any other insurer for the benefits paid and the costs of processing the claim. If contribution is sought among insurers under the Fourth priority, proration shall be based on the number of involved motor vehicles; and

4. The maximum recovery under all policies shall not exceed the amount payable under the policy with the highest dollar limits of benefits.

F. ADDITIONAL DEFINITIONS

1. The definition of "auto" in the DEFINITIONS Section is replaced by the following:

- a. By muscular power; or
- b. On rails or tracks.

2. The following are added to the DEFINITIONS Section:

- a. The "Act" means the Pennsylvania Motor Vehicle Financial Responsibility Law.

- b. "Family member" means a resident of your household who is:

(1) Related to you by blood, marriage or adoption; or

(2) A minor in your custody or in the custody of any other "family member."

- c. "Occupying" means in, upon, getting in, on, out or off.

COMMERCIAL AUTO

Attached to and forming a part of Policy Number PAP 185770 0495

EFFECTIVE 04/18/95

TO 04/18/96

ISSUED TO: JHM ENTERPRISES, INC.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**PENNSYLVANIA ADDED AND COMBINATION
FIRST PARTY BENEFITS ENDORSEMENT**

For a covered "auto" licensed or principally garaged in Pennsylvania, this endorsement modifies insurance provided under the following:

PENNSYLVANIA BASIC FIRST PARTY BENEFITS.

BASIC FIRST PARTY BENEFIT is changed as follows:

SCHEDULE

As indicated below, Added First Party Benefits or Combination First Party Benefits apply instead of the Basic First Party Benefit. The limits of liability shown for the benefits selected below replace the limits of liability shown in the Schedule for the Basic First Party Benefit.

Benefits	Limit of Liability (per insured)
(X) Added First Party Benefits	
Medical Expense Benefits	Up to \$ _____
Work Loss Benefits	Up to \$ <u>5,000</u> subject to a maximum of \$ <u>1,000</u> per month
Funeral Expense Benefits	Up to \$ _____
Accidental Death Benefits	\$ _____
() Combination First Party Benefits	
Maximum Total Limit for All Benefits	Up to \$ _____
Subject to the following individual limits:	
Medical Expense Benefits	No specific dollar amount
Work Loss Benefits	No specific dollar amount
Funeral Expense Benefits	Up to \$ <u>2,500</u>
Accidental Death Benefits	\$ _____

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. COVERAGE

We will pay Added First Party Benefits or Combination First Party Benefits in accordance with the "Act" up to the limits stated in the Schedule or Declarations to or for an "insured" who sustains "bodily injury" caused by an "accident" and arising out of the maintenance or use of an "auto." We will only pay Combination First Party Benefits for expenses or loss incurred within 3 years from the date of the "accident."

In addition to the Medical Expense Benefits described in the Basic First Party Benefits endorsement, Added First Party Benefits and Combination First Party Benefits also consist of:

1. Work Loss Benefits consisting of:
 - a. loss of income. Up to 80% of the gross income actually lost by an "insured."
 - b. reasonable expenses actually incurred to reduce loss of income by hiring:
 - (1) special help, thereby enabling the "insured" to work; or
 - (2) a substitute to perform the work of a self-employed "insured" would have performed.

However, Work Loss Benefits do not include:

- a. loss of expected income for any period following the death of an "insured;" or
 - b. expenses incurred for services performed following the death of an "insured;" or
 - c. any loss of income, or expenses incurred for services performed, during the first 5 working days the "insured" did not work after the "accident" because of the "bodily injury."
2. Funeral Expense Benefits. Actual expenses incurred for an "insured's" funeral or burial if "bodily injury" resulting from the "accident" causes his or her death within 24 months from the date of the "accident."
 3. Accidental Death Benefits. A death benefit paid if "bodily injury" resulting from an "accident" causes the death of you or any "family member" within 24 months from the date of the "accident."

B. EXCLUSIONS

In addition to the exclusions in the Basic First Party Benefit endorsement, the following exclusion also applies.

We will not pay:

Accidental Death Benefits on behalf of any person who intentionally caused or attempted to cause "bodily injury" to himself, herself or any other person.

C. LIMIT OF INSURANCE

1. Regardless of the number of covered "autos," premiums paid, claims made, "autos" involved in the accident or insurers providing First Party Benefits, the most we will pay to or for an "insured" as the result of any one "accident" is the limit shown in the Schedule or the Declarations. Combination First Party Benefits are subject to a maximum total single limit of liability with individual limits for specific benefits as shown in the Schedule or Declarations.
2. If Combination First Party Benefits are afforded, we will make available at least the minimum limit required by the "Act" for Basic First Party Benefits. This provision will not change our total limit of liability.

D. CHANGES IN CONDITIONS

In addition to the CONDITIONS applicable to the Basic First Party Benefit endorsement the following CONDITION also applies:

PAYMENT OF ACCIDENTAL DEATH BENEFITS

The Accidental Death Benefit under this policy will be paid to the executor or administrator of the deceased "insured's" estate. If there is no executor or administrator, benefits shall be paid to:

1. The deceased "insured's" surviving spouse or
2. If there is no surviving spouse, the deceased "insured's" surviving children, or
3. If there is no surviving spouse or surviving children, the deceased "insured's" estate.

COMMERCIAL AUTO

Attached to and forming a part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PENNSYLVANIA UNINSURED MOTORISTS COVERAGE -
NONSTACKED

For a covered "auto" licensed or principally garaged in Pennsylvania, this endorsement modifies insurance provided under the following:

BUSINESS AUTO NON-TRUCKING COVERAGE FORM.
BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM

A. COVERAGE

1. He will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "uninsured" motor vehicle." The damages must result from "bodily injury" sustained by the "insured" caused by an "accident." The owner's or driver's liability for these damages must result from the ownership, maintenance or use of an "uninsured motor vehicle."
2. No judgment for damages arising out of a "suit" brought against the owner or operator of an "uninsured motor vehicle" is binding on us unless we:
 - a. Received reasonable notice of the pendency of the "suit" resulting in the judgment; and
 - b. Had a reasonable opportunity to protect our interests in the "suit."

B. WHO IS AN INSURED

1. You.
2. If you are an individual, any "family member."
3. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto." The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
4. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured."

C. EXCLUSIONS

This insurance does not apply to any of the following:

1. Any claim settled without our consent.
2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
3. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.

D. LIMIT OF INSURANCE

1. Regardless of the number of covered "autos," "insureds," premiums paid, claims made or vehicles involved in the "accident," the most we will pay for all damages resulting from any one "accident" is the LIMIT OF INSURANCE for UNINSURED MOTORISTS COVERAGE shown in the Declarations.

However, no "insured" will be entitled to receive duplicate payments for the same elements of loss.

2. Any amount payable for damages under this coverage shall be reduced by all sums paid by or for anyone who is legally responsible, including all sums paid for the same damages under this Coverage Form's LIABILITY COVERAGE.
3. Any amount paid under this coverage will reduce any amount an "insured" may be paid for the same damages under this Coverage Form's LIABILITY COVERAGE.

E. CHANGES IN CONDITIONS

The CONDITIONS are changed for PENNSYLVANIA UNINSURED MOTORISTS COVERAGE-NONSTACKED as follows:

1. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS is changed by adding the following:
 - a. Promptly notify the police if a hit-and-run driver is involved, and
 - b. Promptly send us copies of the legal papers if a "suit" is brought.
2. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US is changed by adding the following:

If we make any payment due to an "accident" involving an "uninsured motor vehicle" and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid to the extent such payment duplicates any amount we have paid under this coverage.

3. OTHER INSURANCE is placed by the following:

- a. If there is other applicable similar insurance available under more than one Coverage Form or policy, the following priorities of recovery apply:

First - The Uninsured Motorists Coverage applicable to the vehicle the "insured" was "occupying" at the time of the "accident."

Second - The Coverage Form or policy affording Uninsured Motorists Coverage to the "insured" as a named insured or family member.

- b. Where there is no applicable insurance available under the first priority, the maximum recovery under all Coverage Forms or policies in the second priority shall not exceed the highest applicable limit for any one vehicle under any one Coverage Form or policy.

- c. Where there is applicable insurance available under the first priority:

- (1) The LIMIT OF INSURANCE applicable to the vehicle the "insured" was "occupying" under the Coverage Form or policy in the first priority, shall first be exhausted; and

- (2) The maximum recovery under all Coverage Forms or policies in the second priority shall not exceed the amount by which the highest limit for any one vehicle under any one Coverage Form or policy in the second priority exceeds the limit applicable under the Coverage Form or policy in the first priority.

- d. If two or more Coverage Forms or policies have equal priority:

- (1) The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible for all insurers with equal priority;

- (2) The insurer thereafter is entitled to recover pro rata contribution from any other insurer on the same level of priority for the benefits paid and the costs of processing the claim; and

- (3) If we are the insurer against whom the claim is first made, we will pay, subject to the limit of insurance for Uninsured Motorists Coverage shown in the Declarations, after all contributing insurers agree as to:

- (a) whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle;" and

- (b) the amount of damages.

5. The following Condition is added:

ARBITRATION

- a. If we and "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages, either party may make a written demand for arbitration. Each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

- b. Arbitration shall be conducted in accordance with the Pennsylvania Uniform Arbitration Act. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

F. ADDITIONAL DEFINITIONS

The following are added to the DEFINITIONS Section:

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.

2. "Occupying" means in, upon, getting in, out or off.

3. "Uninsured motor vehicle" means a land motor vehicle or trailer:

- a. For which no liability bond or policy applies at the time of an "accident."

- b. For which an insuring or bonding company:

- (1) denies coverage;

- (2) is or becomes insolvent; or

- (3) is or becomes involved in insolvency proceedings.

- c. That is a hit-and-run vehicle and neither the driver nor owner can be identified. The vehicle must:

- (1) hit an "insured," a covered "auto" or a vehicle an "insured" is "occupying;" or

- (2) cause an "accident" resulting in "bodily injury" to an "insured" without hitting an "insured," a covered "auto" or a vehicle an "insured" is "occupying."

If there is no physical contact with the hit-and-run vehicle, the facts of the "accident" must be proved.

However, an "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under

any applicable motor vehicle law, except a self-insurer who is or who becomes insolvent and cannot provide the amounts required by that motor vehicle law.

- b. Owned by a governmental unit or agency; or
- c. Designed for use mainly off public roads while not on public roads.

COMMERCIAL AUTO

Attached to and forming a part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

PENNSYLVANIA UNDERINSURED MOTORISTS COVERAGE -
NONSTACKED

For a covered "auto" licensed or principally garaged in Pennsylvania, this endorsement modifies insurance provided under the following:

BUSINESS AUTO NON-TRUCKING COVERAGE FORM.
BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM

A. COVERAGE

1. We will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "underinsured motor vehicle." The damages must result from "bodily injury" sustained by the "insured" caused by an "accident." The owner's or driver's liability for these damages must result from the ownership, maintenance or use of an "underinsured motor vehicle."
2. We will pay all sums the "insured" is legally entitled to recover as damages from the owner or driver of an "underinsured motor vehicle" only after all liability bonds or policies have been exhausted by judgments or payments
3. No judgment for damages arising out of a "suit" brought against the owner or operator of an "underinsured motor vehicle" is binding on us unless we:
 - a. Received reasonable notice of the pendency of the "suit" resulting in the judgment; and
 - b. Had a reasonable opportunity to protect our interests in the "suit."

B. WHO IS AN INSURED

1. You.
2. If you are an individual, any "family member."
3. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto." The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
4. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured."

C. EXCLUSIONS

This insurance does not apply to any of the following:

1. Any claim settled without our consent.
2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability or similar law.

3. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.

D. LIMIT OF INSURANCE

1. Regardless of the number of covered "autos," "insureds," premiums paid, claims made or vehicles involved in the "accident," the most we will pay for all damages resulting from any one "accident" is the LIMIT OF INSURANCE for UNDERINSURED MOTORISTS COVERAGE shown in the Declarations.

However, no "insured" will be entitled to receive duplicate payments for the same elements of loss.

2. Any amount payable for damages under this coverage shall be reduced by all sums paid by or for anyone who is legally responsible, including all sums paid for the same damages under this Coverage Form's LIABILITY COVERAGE.
3. Any amount paid under this coverage will reduce any amount an "insured" may be paid for the same damages under this Coverage Form's LIABILITY COVERAGE.

E. CHANGES IN CONDITIONS

The CONDITIONS are changed for PENNSYLVANIA UNDERINSURED MOTORISTS COVERAGE - NONSTACKED as follows:

1. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS is changed by adding the following:

Promptly send us copies of the legal papers if a "suit" is brought.

2. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US is changed by adding the following:

If we make any payment due to an "accident" involving an "underinsured motor vehicle" and the "insured" recovers from another party, the "insured" shall hold the proceeds in trust for us and pay us back the amount we have paid to the extent such payment duplicates any amount we have paid under this coverage.

3. OTHER INSURANCE is replaced by following:

- a. If there is other applicable similar insurance available under more than one Coverage Form or policy, the following priorities of recovery apply:

First - The Underinsured Motorists Coverage applicable to the vehicle the "insured" was "occupying" at the time of the "accident."

Second- The Coverage Form or policy affording Underinsured Motorists Coverage to the "insured" as a named insured or family member.

- b. Where there is no applicable insurance available under the first priority, the maximum recovery under all Coverage Forms or policies in the second priority shall not exceed the highest applicable limit for any one vehicle under any one Coverage Form or policy.
- c. Where there is applicable insurance available under the first priority:

- (1) The LIMIT OF INSURANCE applicable to the vehicle the "insured" was "occupying" under the Coverage Form or policy in the first priority, shall first be exhausted; and

- (2) The maximum recovery under all Coverage Forms or policies in the second priority shall not exceed the amount by which the highest limit for any one vehicle under any one Coverage Form or policy in the second priority exceeds the limit applicable under Coverage Form or policy in the first priority.

- d. If two or more Coverage Forms or policies have equal priority:

- (1) The insurer against whom the claim is first made shall process and pay the claim as if wholly responsible for all insurers with equal priority.

- (2) The insurer thereafter is entitled to recover pro rate contribution from any other insurer for the benefits paid and the costs of processing the claim; and

- (3) If we are the insurer against whom the claim is first made, we will pay, subject to the limit of insurance for Underinsured Motorists Coverage shown in the Declaration after all contributing insurers agree as to:

- (a) whether the "insured" is legally entitled to recover damages from the owner or driver of an "underinsured motor vehicle;" and

- (b) the amount of damages

5. The following Condition is added:

ARBITRATION

If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "underinsured motor vehicle" or do not agree as to the amount of damages, either party may make a written demand for arbitration. Each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.

- b. Arbitration shall be conducted in accordance with the Pennsylvania Uniform Arbitration Act. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

F. ADDITIONAL DEFINITIONS

The following are added to the DEFINITIONS Section:

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.
2. "Occupying" means in, upon, getting in, on, out or off.
3. "Underinsured motor vehicle" means vehicle for which the sum of all liability bonds or policies that apply at the time of an "accident" do not provide at least the amount an "insured" is legally entitled to recover as damages.

However, an "underinsured motor vehicle" does not include any vehicle

- a. Owned or operated by a self-insurer under any applicable motor vehicle law;
- b. Owned by a governmental unit or agency; or
- c. Designed for use mainly off public roads while not on public roads.

COMMERCIAL AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PUNITIVE, EXEMPLARY
AND
EXTRACONTRACTUAL DAMAGE
EXCLUSION**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO NON-TRUCKING LIABILITY COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM

The following exclusion is added:

**PUNITIVE, EXEMPLARY AND EXTRACONTRACTUAL
DAMAGE**

This policy does not insure against or provide indemnity for fines, penalties, exemplary or punitive damages or any other type or kind of judgment or award which does not compensate the party benefiting from the award or judgment for any actual loss or damage sustained.

This exclusion applies to all coverages provided under this policy.

COMMERCIAL AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WRONG DELIVERY OF LIQUID PRODUCTS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
TRUCKERS COVERAGE FORM

LIABILITY COVERAGE is changed by adding the following exclusion:

This insurance does not apply to:

"Bodily injury" or "property damage" resulting from the delivery of any liquid into the wrong receptacle or to the wrong address, or from the delivery of one liquid for another, if the "bodily injury" or "property damage" occurs after delivery has been completed.

Delivery is considered completed even if further service or maintenance work, or correction, repair or replacement is required because of wrong delivery.

COMMERCIAL AUTO

Attached to and forming part of Policy Number
ISSUED TO:

EFFECTIVE TO

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(Broad Form)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF TRANSPORTATION

1. The insurance does not apply:
 - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of an "insured" or (b) has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an "insured;" or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility," but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
2. As used in this endorsement:

"Hazardous properties" include radioactive, toxic or explosive properties;

"Nuclear material" means "source material," "special nuclear material" or by-product material;

"Source material," "special nuclear material," and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;
- A. Under any Liability Coverage, to "bodily injury" or "property damage:"
 - (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1945, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of "nuclear material," it:

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor;"

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility."

"Nuclear facility" means:

- (a) Any "nuclear reactor;"
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or packaging "waste;"

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste;"

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PENNSYLVANIA 17402

COMMERCIAL AUTO

Attached to and forming part of Policy Number PAP 1857700495 EFFECTIVE 04/18/1995 TO 04/18/1996

ISSUED TO: JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.
WILLIAMSPORT PA 17701

LOSS PAYEE: JERSEY SHORE STATE BANK
300 MARKET STREET
WILLIAMSPORT PA 17701

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE CLAUSE

This endorsement modifies insurance provided under this policy.

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A. We will pay, as interest may appear, you and the loss payee named in the policy for "loss" to covered "auto."
- B. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embazzlement on your part.
- C. We may cancel the policy as allowed by the

CANCELLATION Common Policy Conditions.

Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy we will mail you and the loss payee the same advance notices.

- D. If we make any payments to the loss payee, we will obtain his or her rights against any other party.

THIS CLAUSE IS APPLICABLE TO THE FOLLOWING COVERED "AUTO(S)":

UNIT#	YEAR	TRADE NAME	BODY TYPE	SERIAL #	INSURED VALUE*	----- DEDUCTIBLES -----		
						OTHER THAN COLLISION	COLLISION	DUMPING LOSS **
1	1985	WHITE	TRACTOR	1MUYDCF4FN071239	16,000	1,000	1,000	
2	1969	FRUEHAUF	TRAILER	UNJ325403	4,000	1,000	1,000	
3	1969	FRUEHAUF	TRAILER	UNJ325404	4,000	1,000	1,000	
4	1974	TRLMOBILE	TRAILER	K41315	5,000	1,000	1,000	
6	1969	FRUEHAUF	TRAILER	UNJ325401	4,000	1,000		
7	1969	FRUEHAUF	TRAILER	UNJ325402	4,000	1,000	1,000	
8	1974	TRLMOBILE	TRAILER	K41316	5,000	1,000		
9	1974	TRLMOBILE	TRAILER	K41317	5,000	1,000		

* If value is shown, coverage is limited to lesser of Insured Value or ACV.

** If the "BODY TYPE" indicated above is a "dump" unit, a special deductible is applicable to each and every loss which occurs while loading and/or unloading in the course of any dumping operation.

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LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PENNSYLVANIA 17402

COMMERCIAL AUTO

Attached to and forming part of Policy Number PAP 1857700495 EFFECTIVE 04/18/1995 TO 04/18/1996

ISSUED TO: JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.
WILLIAMSPORT PA 17701

LOSS PAYEE: JERSEY SHORE STATE BANK
300 MARKET STREET
WILLIAMSPORT PA 17701

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE CLAUSE

This endorsement modifies insurance provided under this policy.

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

- A. We will pay, as interest may appear, you and the loss payee named in the policy for "loss" to covered "auto."
- B. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embazzlement on your part.
- C. We may cancel the policy as allowed by the

CANCELLATION Common Policy Conditions.

Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy we will mail you and the loss payee the same advance notices.

- D. If we make any payments to the loss payee, we will obtain his or her rights against any other party.

THIS CLAUSE IS APPLICABLE TO THE FOLLOWING COVERED "AUTO(S)":

UNIT#	YEAR	TRADE NAME	BODY TYPE	SERIAL #	INSURED VALUE*	----- DEDUCTIBLES -----		
						OTHER THAN COLLISION	COLLISION	DUMPING LOSS **
10	1974	TRLMOBILE	TRAILER	K41318	5,000	1,000		
11	1993	J & L	TANK TRLR	1J9P4AT21P2001084	36,312	1,000	1,000	
15	1981	BUTLER	TRAILER	1TB114028BM452714	10,000	1,000	1,000	
16	1979	F-LINER	TRACTOR	CA213HM160222	7,500	1,000	1,000	
17	1988	F-LINER	TRACTOR	1FUP2DYBXJH3407A8	24,000	1,000	1,000	

* If value is shown, coverage is limited to lesser of Insured Value or ACV.

** If the "BODY TYPE" indicated above is a "dump" unit, a special deductible is applicable to each and every loss which occurs while loading and/or unloading in the course of any dumping operation.

Copyright, Insurance Services Offices, Inc. 1993

COMMERCIAL AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CHANGES - OTHER INSURANCE
HIRED AUTO PHYSICAL DAMAGE COVERAGE**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM

- A. Paragraph 5. b. of the OTHER INSURANCE Condition in the Business Auto, Business Auto Physical Damage and Garage Coverage Forms is replaced by the following:

5. OTHER INSURANCE

- b. For Hired Auto Physical Damage coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own.

- B. Paragraph 5. d. of the OTHER INSURANCE - PRIMARY AND EXCESS INSURANCE PROVISIONS Condition in the Truckers Coverage Form and Truckers Endorsement is replaced by the following:

5. OTHER INSURANCE - PRIMARY AND EXCESS INSURANCE PROVISIONS

- d. For Hired Auto Physical Damage coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own.

COMMERCIAL AUTO

Attached to and forming part of Policy Number
ISSUED TO:

EFFECTIVE

TO

(If no entry appears above, refer to the Policy Declarations for the information.)

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. CANCELLATION

We have the right but are not obligated to:

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

1. Make inspections and surveys at any time;

2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

2. Give you reports on the conditions we find; and

- a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

3. Recommend changes.

- b. 30 days before the effective date of cancellation if we cancel for any other reason.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.

1. Are safe or healthful; or

4. Notice of cancellation will state the effective date of cancellation. The policy will end on that date.

2. Comply with laws, regulations, codes or standards.

5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

E. PREMIUMS

The first Named Insured shown in the Declarations:

B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

1. Is responsible for the payment of all premiums; and

2. Will be the payee for any return premiums we pay.

C. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

F. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

D. INSPECTIONS AND SURVEYS

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

COMMERCIAL-AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PENNSYLVANIA CHANGES -
CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART
 BUSINESSOWNERS POLICY
 COMMERCIAL AUTO COVERAGE PARTS
 COMMERCIAL CRIME COVERAGE PART*
 COMMERCIAL GENERAL LIABILITY COVERAGE PART
 COMMERCIAL PROPERTY COVERAGE PART
 COMMERCIAL INLAND MARINE COVERAGE PART
 FARM COVERAGE PART
 LIQUOR LIABILITY COVERAGE PART
 POLLUTION LIABILITY COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

* This endorsement does not apply to coverage provided for employee dishonesty (Coverage Form A) or public employee dishonesty (Coverage Forms O and P).

- A. The CANCELLATION Common Policy Condition is replaced by the following:

CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by writing or giving notice of cancellation.

2. CANCELLATION OF POLICIES IN EFFECT FOR LESS THAN 60 DAYS.

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 30 days before the effective date of cancellation.

3. CANCELLATION OF POLICIES IN EFFECT FOR 60 DAYS OR MORE

If this policy has been in effect for 60 days or more or if this policy is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- You have made a material misrepresentation which affects the insurability of the risk. Notice of cancellation will be mailed or delivered at least 15 days before the effective date of cancellation.
- You have failed to pay a premium when due, whether the premium is payable directly to us or our agents or indirectly under a premium finance plan or extension of credit. Notice of cancellation will be mailed at least 15 days before the effective date of cancellation.
- A condition, factor or loss experience material to insurability

has changed substantially or a substantial condition, factor or loss experience material to insurability has become known during the policy period. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

- d. Loss of reinsurance or a substantial decrease in reinsurance has occurred, which loss or decrease, at the time cancellation, shall be certified to the Insurance Commissioner as directly affecting inforce policies. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

- e. Material failure to comply with policy terms, conditions or contractual duties. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

- f. Other reasons that the Insurance Commissioner may approve. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

This policy may also be cancelled from inception upon discovery that the policy was obtained through fraudulent statements, omissions or concealment of facts material to the acceptance of the risk or to the hazard assumed by us.

4. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. Notice of cancellation will state the specific reasons for cancellation.

5. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

6. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata and will be returned within 10 business days after the effective date of cancellation. If the first Named Insured cancels, the refund may be less than pro rata and will be returned within 30 days after the effective date of cancellation. The cancellation will be effective even if we have not made or offered a refund.

7. If notice is mailed, it will be by registered or first class mail. Proof of mailing will be sufficient proof of notice.

B. The following are added and supersede any provisions to the contrary:

1. NONRENEWAL

If we decide not to renew this policy,

we will mail or deliver written notice of nonrenewal, stating the specific reasons for nonrenewal, to the first Named Insured at least 60 days before the expiration date of the policy.

2. INCREASE IN PREMIUM

If we increase your renewal premium, we will mail or deliver to the first Named Insured:

a. Written notice of our intent to increase the premium at least 60 days before the effective date of the premium increase; and

b. An estimate of the increase at least 30 days before the effective date of premium increase.

Any notice of nonrenewal or renewal premium increase will be mailed or delivered to the first Named Insured's last known address. If notice is mailed, it will be by registered or first class mail. Proof of mailing will be sufficient proof of notice.

COMMERCIAL AUTO

Attached to and forming a part of Policy Number EFFECTIVE TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

PENNSYLVANIA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESS AUTO NON-TRUCKING COVERAGE FORM.
BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM

For a covered "auto" licensed or principally garaged in, or "garage operations" conducted in, Pennsylvania, the Coverage Form is changed as follows:

A. CHANGES IN CONDITIONS

The following is added to the GENERAL CONDITIONS section:

CONSTITUTIONALITY CLAUSE

The premium for, and the coverages of, this Coverage Form have been established in reliance upon the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law.

In the event a court, from which there is no appeal, declares or enters a judgment, the effect of which is to render the provisions of such statute invalid or unenforceable in whole or in part, we shall have the right to recompute the premium payable for the Coverage Form and void or amend the provisions of the Coverage Form, subject to the approval of the Insurance Commissioner.

COMMERCIAL AUTO

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PENNSYLVANIA NOTICE

An Insurance Company, its agents, employees, or service contractors acting on its behalf, may provide services to reduce the likelihood of injury, death or loss. These services may include any of the following or related services incident to the application for, issuance, renewal or continuation of, a policy of insurance:

1. Surveys;
2. Consultation or advice; or
3. Inspections.

The "Insurance Consultation Services Exemption Act" of Pennsylvania provides that the Insurance Company, its agents, employees or service contractors acting on its behalf is not liable for damages from injury, death or loss occurring as a result of any act of omission by any person in the in the furnishing of or the failure to furnish these services.

The Act does not apply:

1. If the injury, death or loss occurred during the actual performance of the services and was caused by the negligence of the Insurance Company, its agents, employees or service contractors;
2. To consultation services required to be performed under a written service contract not related to a policy of insurance; or
3. If any acts or omissions of the Insurance Company, its agents, employees or service contractors are judicially determined to constitute a crime, actual malice, or gross negligence.

INLAND MARINE

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

**MOTOR TRUCK CARGO INSURANCE
TRANSIT AND LOCATION COVERAGE
(Broad Form)**

PROPERTY COVERED

This policy covers all lawful goods and merchandise, except as excluded or restricted by this or any other policy, while loaded for shipment and in transit in or on a "described vehicle."

COVERED RADIUS OF OPERATION

The radius of operation is the radius shown in this policy or any other policy to which this insurance applies.

TERRITORY WHERE COVERAGE APPLIES

Coverage applies only while the property is in the United States, Canada and Puerto Rico. This includes property that is in transit except to or from Alaska, Hawaii or Puerto Rico.

COVERAGE AMOUNT

The most "we" will pay for all covered property is \$2,000.00 (two thousand dollars) on any one item, any one loss, catastrophe or disaster, either in case of partial loss or total loss, salvage charges or expenses or all combined. This amount is excess over any other collectible insurance. If there is other collectible insurance that applies to a covered loss, or would have applied in the absence of this Inland Marine coverage, "we" will pay for the loss only after the full amount from the other insurance has been paid.

DEDUCTIBLE

\$1,000.00 (one thousand dollars) deductible applies to each loss after all other adjustments have been made.

EXTENSION OF COVERAGE

This extension of coverage does not increase the coverage amount stated above.

Substitute Vehicles - If a "described vehicle" is disabled, "you" may use a replacement vehicle to complete the transit of the covered cargo. This coverage applies only until the covered cargo reaches its original destination. "You" do not have to report the use of these replacement vehicles.

PROPERTY EXCLUDED

"We" do not cover:

1. cargo on a vehicle after it has remained at any location for more than 72 hours. This includes locations that "you" own or use.
2. cargo in a detached truck body, trailer or semi-trailer if not a "described vehicle" on the policy.
3. money. This means currency, coins, bank notes, money orders, traveler's checks, bullion and similar items.
4. securities. These are any negotiable or nonnegotiable agreements in writing that have value. They include revenue stamps, other stamps in current use, tokens and tickets.
5. accounts, manuscripts, mechanical drawings and other records and documents.
6. fine arts. "We" do cover these losses if they are caused by fire; lightning; windstorm; earthquake; flood; smoke; explosion; aircraft, spacecraft; self-propelled missiles and objects that fall from these items; vehicles, collision; upset or overturn of a "described vehicle;" collapse of a bridge or culvert; vandalism; theft; attempted theft; or collapse of buildings.
7. livestock or poultry. "We" do cover losses for total death or injury rendering death immediately necessary in consequence of a covered peril.
8. breakage of eggs. "We" do cover losses if two (2) conditions are met. First, the breakage must be caused by a covered peril, secondly, fifty percent (50%) or more of the eggs within each damaged shipping package or crate must be broken. The most "we" will pay for any one (1) package or crate is \$ 200.00.
9. damage to a "described vehicle"
10. tarpaulins, or wrapping materials
11. cargo for which "you" are legally liable while it is in the custody of another carrier. "We" do cover this property if "you" have not waived "your" right to recover for a loss against that carrier.
12. freight charges. "We" do cover freight charges earned prior to a shipment if "you" are legally liable for this charge.

PERILS COVERED

"We" cover direct physical loss to covered cargo unless the loss is caused by a peril that is excluded. The loss must be due to an external cause.

PERILS EXCLUDED

"We" do not pay for a loss if one or more of the following excluded perils apply to the loss, regardless of other causes or events that contribute to or aggravate the loss, whether such causes or events act to produce the loss before, at the same time as, or after the excluded peril.

"We" do not pay for a loss that results from:

1. a dishonest or illegal act, alone or in collusion with another, by:
 - a. "you;"
 - b. others who have an interest in the property;
 - c. others to whom "you" entrust the property; or
 - d. the employees or agents of a., b. or c., whether or not they are at work.

"We" do cover loss caused by dishonest acts by carriers or other bailees or hire.
2. mysterious disappearance.
3. theft of a part of the contents of any shipping package.
4. misdelivery.
5. corrosion or rust.
6. the following:
 - a. breakage;
 - b. marring or scratching;
 - c. leakage, evaporation or shrinkage;
 - d. mold or rot.
 - e. property becoming soured, scented, discolored or changed in flavor.
 - f. contact with oil; and
 - g. the contact of one commodity with another.

"We" do cover these losses if they are caused by fire; lightning; windstorm; earthquake; flood smoke; explosion; aircraft, spacecraft; self-propelled missiles and objects that fall from these items; vehicles, collision; upset or overturn of a described vehicle; collapse of a bridge or culvert; vandalism; theft; attempted theft; or collapse of buildings.
7. mechanical or electrical breakdown or failure. If a fire or explosion results, "we" do cover the loss caused by the fire or explosion.
8. breakdown or failure of a refrigerating unit.
9. breakdown or failure of heating equipment installed in a cargo compartment.
10. loading cargo onto or unloading it from a "described vehicle."

"We" do provide coverage for these perils if "you" carry primary insurance for these type hazards.
11. rough handling or poor packing.
12. strike, riot or civil commotion.

There are other perils that are not covered. These are listed in the Inland Marine General Terms.

VALUATION

This replaces the "Valuation" provision in the Inland Marine General Terms. The value of the property will be based on the following amounts:

1. If there is an invoice, the property will be valued at the cost shown on the invoice.
2. If there is no invoice:
 - a. property that is sold but not delivered will be valued at its net selling price after all discounts and allowances have been taken.
 - b. all other property will be valued at its actual cash value.
3. The property of others will be valued at the amount that "you" are liable for to the owner. This includes the cost of labor and materials that "you" have invested in the property. However, the value of this property will never be more than its actual cash value.
4. exhibitions and displays will be valued at "your" cost if they belong to "you."
5. negatives and film prints will be valued at the cost to replace these items with an equal amount of raw stock.
6. if exclusion #5 under "PROPERTY EXCLUDED" has been deleted then accounts, manuscripts, mechanical drawings and other records and documents will be valued at the cost to replace them with an equal amount of raw stock, plus the cost to duplicate them from original materials if they can be duplicated.
7. all other property will be valued at its actual cash value.

BRANDS AND LABELS

If covered property that has a brand or label is damaged by a covered peril and "we" agree to take all or part of the property at an agreed or appraised value, "you" must:

1. stamp "salvage" on the property or its container; or
2. remove the label.

Stamping "Salvage" or removing the label must not cause further physical damage to property. The expense of "stamping" or removal will be charged to salvaging expense.

AMOUNT WE PAY

This replaces the "Amount We Pay" provision in the Inland Marine General Terms. The smallest of the amounts shown below is the most that "we" will pay "you" for a loss.

1. the amount of "your" interest in the property.
2. the value shown in the tariff document, bill of lading or shipping receipt.
3. the amount determined by the valuation clause.
4. the cost to repair, rebuild or replace the property with material of like kind and quality.
5. the coverage amount shown.

In all cases, the amount "we" pay will be excess over any collectible insurance "you" carry. "We" will pay for the loss only after the full amount from the other insurance has been paid.

PREMISES PROTECTION

"You" must maintain in proper working order the protective devices that were in operation on the effective date of this coverage. "Your" failure to do so will void coverage at the premises where the device is located. Coverage will not be void if the operation of the device is suspended because of:

1. a maintenance, repair, adjustment or service operation; or
2. an event that is beyond "your" control.

DEFINITIONS

In addition to the definitions in the Inland Marine General Terms, the following definitions apply :

"described vehicle" - a unit described under SECTION I - COVERED AUTOS of the Commercial Automobile division of this package policy. For the purpose of this coverage a described vehicle of the Commercial Tractor type shall include any undescribed attached trailer(s) or semi-trailer(s).

commercial tractor - is a unit not designed to carry or transport any property, goods or merchandise in and of its self except by the use of a trailer or semitrailer

DEDUCTIBLE WAIVER

The deductible for this coverage shall be waived if at the time of loss "we" provided cargo coverage for "you" under a separate Inland Marine Floater Policy.

INLAND MARINE

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

AGREEMENT

In return for "your" payment of the required premium, "we" provide the Inland Marine coverage described in this policy during the policy period subject to the:

1. Inland Marine General "Terms."
2. Inland Marine coverage "terms."
3. Policy "terms" that relate to cancellation, changes made to the policy, examination of books and records, inspections and surveys, and assignment or transfer of rights or duties.

INLAND MARINE GENERAL TERMS

DEFINITIONS

1. The words "you" and "your" mean the person, persons or organization named on the Declarations.
2. The words "we," "us" and "our" mean the company providing this insurance.
3. "Insured" means "you." With respect to covered property that is not used for business, the insured also means:
 - a. "your" spouse;
 - b. "your" relatives if residents of "y o u r" household;
 - c. persons under the age of 21 in "your" care or the care of "your" resident relatives; or
 - d. "your" legal representative if "you" die while insured by this policy. (This person is an "insured" only for the covered property.)
4. "Business" means a trade, profession or occupation whether full or part time. This includes:
 - a. the rental of property to others; and
 - b. farming.
5. "Described premises" means that part of the building and grounds which "you" occupy at the location shown.
6. "Terms" means the conditions, definitions, exclusions, limitations and provisions used in this policy.

PERILS EXCLUDED

"We" do not pay for a loss if one or more of the following excluded perils apply to the loss, regardless of other causes or events that contribute to or aggravate the loss whether such causes or events act to produce the loss before, at the same time as or after the excluded peril. "We" do not pay for a loss that results from:

1. wear and tear to covered property.
2. gradual deterioration of covered property.
3. a fault or weakness that is intrinsic to the property which causes it to break, spoil, become defective or destroy itself.
4. insects or vermin damage to covered property.
5. delay, loss of market, loss of use, or "business" interruption.
6. obsolescence or depreciation of covered property.
7. war. This means:
 - a. declared war, undeclared war, civil war, insurrection, rebellion or revolution;
 - b. a warlike act by a military force or by military personnel;
 - c. the destruction, seizure or use of the property for a military purpose; or
 - d. the discharge of a nuclear weapon even if it is accidental.
8. civil authority. This means:
 - a. seizure of destruction under quarantine or customs regulations;
 - b. confiscation or destruction by order of a government or public authority; or
 - c. risks of contraband or illegal transportation or trade.
9. nuclear hazard. This means nuclear reaction, nuclear radiation or radioactive contamination:
 - a. whether controlled or uncontrolled; or
 - b. caused by, contributed to or aggravated by a peril covered by this policy. A loss caused by nuclear hazard will not be

considered to be a loss caused by fire, explosion or smoke. If the loss is covered by this policy, "we" do cover the loss caused by a fire that results from the nuclear hazard.

10. other perils that are not covered. These are listed for each coverage.

"We" do not pay for such excluded loss even if the following contribute to, aggravate or cause the loss:

1. the act or decision of a person, group, organization or governmental body. This includes the failure to act or decide.
2. a fault, defect or error, negligent or not, in:
 - a. planning, zoning, surveying, siting, grading, compacting, land use, or development of property.
 - b. the design, blueprint, specification, workmanship, construction, renovation, remodeling or repair of property. This includes the materials needed to construct, remodel or repair the property.
 - c. maintenance of property.

These apply whether or not the property is covered by this policy.

3. a condition of the weather.
4. the collapse of a building or structure.

WHAT MUST BE DONE IN CASE OF LOSS

1. **Protect the Property.** The "insured" must take all reasonable steps to protect or recover the covered property after a loss has occurred.
2. **Notice.** The "insured" must promptly notify "us" or "our" agent, in writing if requested.
3. **Notice to Police.** The "insured" must promptly notify the police if the loss results from a violation of the law.
4. **Proof of Loss.** The "insured" must send "us" a statement of loss, under oath if requested within 90 days after the loss occurs. The following information must be included:
 - a. the date, time, place and details of the loss.
 - b. other insurance that may cover the loss.
 - c. "your" interest and the interest of all others in the property involved in the loss. This includes all mortgages and liens.
 - d. changes in the title to the covered property during the policy period.
 - e. detailed estimates for the repair or replacement of the covered property.
 - f. an inventory of lost, damaged and all remaining covered property. This must

show in detail the quantity, description, cost and actual cash value of the property and the amount of the loss. Copies of all bills, receipts and related documents that substantiate the inventory must be attached.

5. **Additional Duties.** As often as "we" may reasonably request, an "insured" must:

- a. submit to an examination under oath.
- b. assist "us" in obtaining the attendance of employees for examination under oath.
- c. exhibit damaged and undamaged property.
- d. produce all records that relate to value, loss and cost, and permit copies and abstracts to be made from them.

6. **Cooperation.** The "insured" must cooperate with "us" in performing all acts that are required by this Inland Marine coverage.

7. **Volunteer Payments.** The "insured" may not voluntarily make payments, assume obligations, pay or offer rewards or incur other expenses, except at the "insured's" own expense.

8. **Abandonment.** The "insured" may not abandon the property to "us" without "our" written consent.

HOW MUCH WE PAY

1. **Actual Cash Value.** Actual cash value includes a deduction for depreciation, however caused.
2. **Valuation.** Valuation is based on the actual cash value of the property at the time of loss.
3. **The Amount We Pay.** The smallest of the amounts shown below is the most that "we" will pay for a loss:
 - a. the amount determined under "Valuation."
 - b. the cost to repair, replace or rebuild the property with material of like kind and quality.
 - c. the amount of "your" interest in the property.
 - d. the coverage amount shown.

This amount will be adjusted by the deductible amount, coinsurance penalty or other limitation which may apply.

4. **Loss to Pairs or Sets.** If there is a loss to an item that is part of a pair or set, at "your" option "we" will pay the full actual cash value up to the coverage amount shown for the pair or set. "You" will give "us" the remainder of the pair or set. If "you" do not choose this option, "we" will pay only for a reasonable part of the actual cash value of the pair or set.
5. **Loss to Parts.** If there is a loss to an

item that consists of [redacted] parts, "we" will pay only for the loss to that part. A loss to a part is not considered to be a loss to the whole item.

6. **Insurance Under More Than One Policy.** If there is other collectible insurance that applies to a covered loss, or would have applied in the absence of this Inland Marine coverage, "we" will pay for the loss only after the full amount from the other insurance has been paid.
7. **Insurance Under More Than One Coverage.** If more than one coverage applies to the same loss, "we" will pay no more than the actual amount of the loss.
8. **Losses Paid By Others.** "We" will not pay for that part of a loss that has been paid by someone else.
9. **Restoring the Coverage Amount.** The payment of a claim will not reduce the coverage amount. If "we" pay a loss for items that are separately listed and the coverage amount that applies to these items is reduced at "your" request, "we" will return the unearned premium for these items to "you."

LOSS PAYMENT

1. **Our Options.** "We" may:
 - a. pay the loss in money; or
 - b. repair, replace or rebuild the property. "We" must give the "insured" notice of "our" intent to do so within 30 days after "we" received a satisfactory proof of loss.

"We" may take all or a part of the damaged property at the agreed or appraised value. Property that "we" have paid for or replaced will become "our" property.
2. **Your Property.** "We" will adjust all losses with "you." Payment will be made to "you" unless a loss payee is named with respect to this Inland Marine coverage.
3. **Property of Others.** Loss to property of others may be adjusted with "you." "We" reserve the right to adjust the loss with the owner. "Our" payment to the owner will satisfy "our" obligation to "you" for loss to this property. At "our" option, without cost to "you," "we" may choose to defend "you" from suits which result from a covered loss to the property of others.
4. **When We Pay.** "We" will pay for a loss within 30 days after a satisfactory proof of loss is received and the amount of the loss has been agreed to in writing.

CLAIMS AGAINST OTHERS

1. **Subrogation.** If "we" pay for a loss, "we" may require the "insured" to assign to "us" the right of recovery against others. "We" will not pay for a loss if the "insured" impairs this right to recover. The "insured's" right to recover from others may be waived in writing before a loss occurs.

2. **Loan Receipt.** When we believe that a loss can be recovered from others;
 - a. "we" may make an advance payment to "you" in the form of a loan.
 - b. at "our" expense, "we" will be allowed to bring suit in the "insured's" name against those who are responsible for the loss.
 - c. the loan will be repaid from the amount recovered.
3. **Recoveries.** The "insured" must notify "us" or "we" must notify the "insured" promptly if either receives a recovery for a loss which "we" have paid. The costs that are incurred by either party in making the recovery are to be reimbursed first. "We" are entitled to the surplus up to the amount that "we" have paid for the loss. The "insured" may then keep any excess.

DISAGREEMENTS

1. **Appraisal.** If "you" and "we" do not agree on the amount of the loss, the actual cash value of the property or the cost to repair or replace the property, either party may demand that these amounts be determined by appraisal. If either party makes a written demand for appraisal, each will select a competent, independent appraiser and notify the other of the appraiser's identity within 20 days after the receipt of the written demand. The two appraisers will select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, "you" or "we" can ask a judge of a court in the state where the appraisal is pending to select an umpire.

The appraisers will determine:

- a. the amount of the loss;
- b. the actual cash value of the property; and
- c. the cost to repair or replace the property.

Each amount will be stated separately.

If the appraisers submit a written report of an agreement to "us," the agreement will establish these amounts. If the appraisers fail to agree within a reasonable time, they will submit only their differences to the umpire. A written agreement by any two of these three will establish the amounts stated above.

Each appraiser will be paid by the party selecting that appraiser. The compensation of the umpire and other expenses of the appraisal will be shared equally by "you" and "us."

2. **Suit Against Us.** No suit to recover for a loss may be brought against us unless:
 - a. all the "terms" of this Inland Marine coverage have been complied with; and
 - b. the suit is commenced within one year after the loss.

OTHER POLICY CONDITIONS

1. **Conformity With Statutes.** The "terms" of this Inland Marine coverage in conflict with statutes of the state where this policy is issued are changed to conform to those statutes.
2. **Continuous Policies.** If this policy is issued on a continuous basis (with no specific date of expiration), "we" may substitute or "we" may add at each anniversary date the forms and endorsements then authorized for use with this Inland Marine coverage.
3. **Liberalization.** If a revision of a form endorsement which would broaden coverage without an additional premium is adopted during the policy period, or within 6 months before the Inland Marine coverage is effective, the broadened coverage will apply.
4. **Misrepresentation, Concealment or Fraud.** This Inland Marine Coverage is void if before or after a loss:
 - a. the "insured" has concealed or misrepresented.
 - (1) a material fact or circumstance that relates to this insurance or the subject thereof; or
 - (2) an "insured's" interest herein.
 - b. there has been fraud or false swearing by an "insured" with regard to a matter that relates to this insurance or the subject thereof.
5. **No Benefit to Bailee.** This Inland Marine coverage will not benefit those who are paid to assume custody of the covered property.
6. **Reporting Terms Only.** This Inland Marine coverage may be subject to reporting "terms." If it is cancelled, "you" must report the required amounts as of the cancellation date.

INLAND MARINE

Attached to and forming part of Policy Number

EFFECTIVE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

COMMON POLICY CONDITIONS

1. **Assignment** - This policy is void if it is assigned without "our" written consent.
2. **Cancellation** - "You" may cancel this policy by returning it to "us" or by giving "us" a written notice and statement at what future time coverage is to cease.

"We" may cancel this policy, or one or more of its parts, by giving "you" a written notice at least 10 days before the cancellation is to take effect. The notice will state the time that the cancellation is to take effect. The notice will be sent to "your" mailing address last known to "us."

"Your" return premium, if any, will be calculated according to "our" rules. It will be refunded to "you" with the cancellation notice or within a reasonable time. Payment or tender of the unearned premium is not a condition of cancellation.
3. **Change, Modification or Waiver of Policy Terms** - A change or waiver of terms of this policy must be issued by "us" in writing to be valid.
4. **Inspections** - "We" have the right, but are not obligated, to inspect "your" property and operations. This inspection may be made by "us" or may be made on "our" behalf. An inspection or its resulting advice or report does not warrant that "your" property or operations are safe, healthful or in compliance with laws, rules or regulations. Inspections or reports are for "our" benefit only.
5. **Examination of Books and Records** - "We" may examine and audit "your" books and records that relate to this policy during the policy period and within three years after the policy has expired.

Attached to and forming part of Policy Number

EFEE

TO

ISSUED TO:

(If no entry appears above, refer to the Policy Declarations for the information.)

NOTICE

We advise that an investigation may be made regarding information as to character, general reputation, personal characteristics and mode of living. Information on the nature and scope of the report is available upon written request.

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996
Endorsement Number...: 1
Endorsement Effective: 05/15/1995

UNIT # 1 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
1991	ITE	TRACTOR	1WUYDCFE4FN071239	C	73280	IN	50521	380	PA	81	10	WILLIAMSPORT		

THIS LOSS PAYEE IS ADDED TO UNIT # 1

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

UNIT # 2 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
1969	FRUEHAUF	TRAILER	UNJ325403	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		

THIS LOSS PAYEE IS ADDED TO UNIT # 2

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

UNIT # 3 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
1969	FRUEHAUF	TRAILER	UNJ325404	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		

THIS LOSS PAYEE IS ADDED TO UNIT # 3

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

UNIT # 4 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
1974	TRIMOBILE	TRAILER	K41315	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		

*** CONTINUED ***

LINCOLN GENERAL INSURANCE COMPAN.
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 2

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here
with, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996

Endorsement Number...: 1
Endorsement Effective: 05/15/1995

THIS LOSS PAYEE IS ADDED TO UNIT # 4

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

NIT # 5 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVH	Codes	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
967	FRUEHAUF	TRAILER	UNEF290102	C	50000	IN 67521	380	PA	81		10	WILLIAMSPORT	

THIS LOSS PAYEE IS ADDED TO UNIT # 5

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

NIT # 6 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVH	Codes	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
969	FRUEHAUF	TRAILER	UNJ325401	C	50000	IN 67521	380	PA	81		10	WILLIAMSPORT	

THIS LOSS PAYEE IS ADDED TO UNIT # 6

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

NIT # 7 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVH	Codes	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
969	FRUEHAUF	TRAILER	UNJ325402	C	50000	IN 67521	380	PA	81		10	WILLIAMSPORT	

THIS LOSS PAYEE IS ADDED TO UNIT # 7

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

*** CONTINUED ***

LINCOLN GENERAL INSURANCE COMPAN.
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 3

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996

Endorsement Number....: 1
Endorsement Effective: 05/15/1995

IT # 8 CHANGED *****

ar Trade	Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
74	TRLMOBILE	TRAILER	K41316	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		

HIS LOSS PAYEE IS ADDED TO UNIT # 8

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

IT # 9 CHANGED *****

ar Trade	Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
74	TRLMOBILE	TRAILER	K41317	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		

HIS LOSS PAYEE IS ADDED TO UNIT # 9

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

IT # 10 CHANGED *****

ar Trade	Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
74	TRLMOBILE	TRAILER	K41318	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		

HIS LOSS PAYEE IS ADDED TO UNIT # 10

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

IT # 11 CHANGED *****

ar Trade	Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
93 J & J	TANK TRLR		1J9P4AT21P2001084	C	50000	IN	67521	220	PA	81	10	WILLIAMSPORT		

*** CONTINUED ***

LINCOLN GENERAL INSURANCE COMPAN
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 4

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here
with, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996

Endorsement Number....: 1
Endorsement Effective: 05/15/1995

HIS LOSS PAYEE IS ADDED TO UNIT # 11

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

IT # 14 CHANGED *****

ar Trade Name	Body Type	Serial Number	Bus Use	GVW	Codes	Dis Class	Pc St Cnty City Terr	Garaging City	Pro-Rated Premium
36 FREIGHTLIN	TRACTOR	1FUPYDYB9GP287269	C	50000	IN 50521	380 PA	81	10 WILLIAMSPORT	

HIS LOSS PAYEE IS ADDED TO UNIT # 14

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

IT # 15 CHANGED *****

ar Trade Name	Body Type	Serial Number	Bus Use	GVW	Codes	Dis Class	Pc St Cnty City Terr	Garaging City	Pro-Rated Premium
31 CUMMINS	TRAILER	1TB114028BM452714	C	50000	IN 67521	380 PA	81	10 WILLIAMSPORT	

HIS LOSS PAYEE IS ADDED TO UNIT # 15

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

IT # 16 CHANGED *****

ar Trade Name	Body Type	Serial Number	Bus Use	GVW	Codes	Dis Class	Pc St Cnty City Terr	Garaging City	Pro-Rated Premium
79 F-LINER	TRACTOR	CA213HM160222	C	80000	IN 50521	380 PA	81	10 WILLIAMSPORT	

HIS LOSS PAYEE IS ADDED TO UNIT # 16

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

*** CONTINUED ***

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 5

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996
Endorsement Number...: 1
Endorsement Effective: 05/15/1995

UNIT # 17 CHANGED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVH	Codes	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rate Premium
1988	F-LINER	TRACTOR	1FUP2DYBXJH340788	C	50000	IN 50521	380	PA	81			10	WILLIAMSPORT		

THIS LOSS PAYEE IS ADDED TO UNIT # 17

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

ENDORSEMENT SCHEDULE CHANGES

	NUMBER	FORM / ENDORSEMENT DESCRIPTION
ADDED	L 1063 03 93	SCHEDULE OF COVERED AUTOS
AD	CA9944 12 93A	LOSS PAYABLE CLAUSE FOR: JERSEY SHORE STATE BANK

ENDORSEMENT TOTAL 0

Agent:

SUSQUEHANNA INS. ASSOC., INC.
6 E. 18TH STREET

SELINGROVE PA 17870

5520/0000

Authorized Representative

Endorsement Issued: 5/26/95

SYOUNG

Insureds Name: JHM ENTERPRISES, INC

SCHEDULE OF COVERED AUTO CHANGES
(Per Endorsement No: 1)

Page: 1

LIABILITY COVERAGE AFFORDED TO A SCHEDULED POWER UNIT ALSO APPLIES TO ANY ATTACHED TRAILER OR SEMI-TRAILER SUBJECT TO ALL CONDITIONS AND OTHER TERMS OF THE POLICY.

IT#	Year	Trade Name	Body Type	Serial Number	Bus Use	GVW GCH	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City
1	1985	WHITE	TRACTOR	1WUYDCFE4FN071239	C	73280	IN	50521	380	PA	81		10 WILLIAMSPORT	
2	1969	FRUEHAUF	TRAILER	-S UNJ325403	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
3	1969	FRUEHAUF	TRAILER	-S UNJ325404	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
4	1974	TRLMOBILE	TRAILER	-S K41315	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
5	1967	FRUEHAUF	TRAILER	-S UNEF290102	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
6	1969	FRUEHAUF	TRAILER	-S UNJ325401	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
7	1969	FRUEHAUF	TRAILER	-S UNJ325402	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
8	1974	TRLMOBILE	TRAILER	-S K41316	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
9	1974	TRLMOBILE	TRAILER	-S K41317	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
10	1974	TRLMOBILE	TRAILER	-S K41318	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
11	1993	J & J	TANK TRLR	-S 1J9P4AT21P2001084	C	50000	IN	67521	220	PA	81		10 WILLIAMSPORT	
14	1986	FREIGHTLIN	TRACTOR	1FUPYDYB9GP287269	C	50000	IN	50521	380	PA	81		10 WILLIAMSPORT	
15	1981	BUTLER	TRAILER	-S 1TB114028BM452714	C	50000	IN	67521	380	PA	81		10 WILLIAMSPORT	
16	1979	F-LINER	TRACTOR	CA213HM160222	C	80000	IN	50521	380	PA	81		10 WILLIAMSPORT	
17	1988	F-LINER	TRACTOR	1FUP2DYBXJH340788	C	50000	IN	50521	380	PA	81		10 WILLIAMSPORT	

Policy # PAP 185770 0495 Insureds Name IM ENTERPRISES, INC.

Page: 2

----- COVERAGE and PREMIUM BREAKDOWN -----
 (Per Endorsement No: 1)

Company Unit Number Insureds Unit Number	UNITS									
	1		2		3		4		5	
	CHANGE		CHANGE		CHANGE		CHANGE		CHANGE	
	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
LIABILITY										
Liability	750,000		UNHOOKED		UNHOOKED		UNHOOKED		UNHOOKED	
Personal Injury Protection	5,000		COVERAGE		COVERAGE		COVERAGE		COVERAGE	
Additional Benefits										
Medical Expense										
Work Loss	5,000									
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage										
UNinsured Motorist	35,000									
UNDERinsured Motorist	35,000									
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	63		65		65		65		65	
Rating Factor %										
Zone Group/Trailer Discnt	1 N		1 N		1 N		1 N		1 N	
L IITY TOTAL ----->										

	Rating		Rating		Rating		Rating		Rating	
PHYSICAL DAMAGE										
Cost New	30,000		25,000		25,000		25,000		25,000	
Estimated Value	16,000		4,000		4,000		5,000		4,000	
Depreciated Value	10,678		6,371		6,371		6,371		6,371	
Dumping Code	N		N		N		N		N	
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	63		65		65		65		65	
Rating Factor %										
Stated Amount/Zones	Y 00-00		Y 00-00		Y 00-00		Y 00-00		Y 00-00	
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
	Amount		Amount		Amount		Amount		Amount	
Loss of Use	3,000		3,000		3,000		3,000		3,000	
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(Prem. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000		1,000		1,000		1,000		1,000	
Specified Causes of Loss										
Collision	1,000		1,000		1,000		1,000		1,000	
PHYSICAL DAMAGE TOTAL ->										

Premium to Value %	8.43		5.18		5.18		5.16		5.18	
PREMIUM TOTAL per UNIT ->										

State Surchg/Tax - Code										
Co. Surchg/Tax - Code										
City Surchg/Tax - Code										
TOTAL per UNIT ->										

Policy # PAP 185770 0495 Insureds Name JIM ENTERPRISES, INC.

Page: 3

----- COVERAGE and PREMIUM BREAKDOWN -----
 (Per Endorsement No: 1)

Company Unit Number Insureds Unit Number	UNITS									
	6		7		8		9		10	
	8		9		10		11		12	
LIABILITY	CHANGE		CHANGE		CHANGE		CHANGE		CHANGE	
	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
Liability	UNHOOKED		UNHOOKED		UNHOOKED		UNHOOKED		UNHOOKED	
Personal Injury Protection	COVERAGE		COVERAGE		COVERAGE		COVERAGE		COVERAGE	
Additional Benefits										
Medical Expense										
Work Loss										
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage										
UNinsured Motorist										
UNDERinsured Motorist										
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	65		65		65		65		65	
Rating Factor %										
Zone Group/Trailer Discnt	1 N		1 N		1 N		1 N		1 N	
LIABILITY TOTAL ----->										

	Rating		Rating		Rating		Rating		Rating	
PHYSICAL DAMAGE										
Cost New	20,000		20,000		25,000		25,000		25,000	
Estimated Value	4,000		4,000		5,000		5,000		5,000	
Depreciated Value	5,096		5,096		6,371		6,371		6,371	
Dumping Code	N		N		N		N		N	
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	65		65		65		65		65	
Rating Factor %										
Stated Amount/Zones	Y 00-00		Y 00-00		Y 00-00		Y 00-00		Y 00-00	
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
	Amount		Amount		Amount		Amount		Amount	
Loss of Use	3,000		3,000		3,000		3,000		3,000	
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(Incom. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000		1,000		1,000		1,000		1,000	
Specified Causes of Loss										
Collision	1,000		1,000		1,000		1,000		1,000	
PHYSICAL DAMAGE TOTAL -->										

Premium to Value %	5.55		5.55		5.16		5.16		5.16	
PREMIUM TOTAL per UNIT -->										

State Surchg/Tax - Code										
Co. Surchg/Tax - Code										
City Surchg/Tax - Code										
TOTAL per UNIT -->										

Policy # PAP 185770 0495 Insureds Name JHM ENTERPRISES, INC.

Page: 4

----- COVERAGE and PREMIUM BREAKDOWN -----
 (Per Endorsement No: 1)

Company Unit Number Insureds Unit Number	UNITS									
	11		14		15		16		17	
	CHANGE		CHANGE		CHANGE		CHANGE		CHANGE	
ABILITY	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
ability	UNHOOKED		750,000		UNHOOKED		750,000		750,000	
ersonal Injury Protection	COVERAGE		5,000		COVERAGE		5,000		5,000	
ditional Benefits										
Medical Expense			5,000				5,000		5,000	
Work Loss										
Accidental Death										
Funeral Expense										
mbined First Party										
astrophic Medical										
dical Payments										
nitive Damage										
nsured Motorist			35,000				35,000		35,000	
DERinsured Motorist			35,000				35,000		35,000	
ned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
roperty Dmg Deductible										
Deductible Factor										
ting Code/Line Code	65		63		65		63		63	
ting Factor %										
Group/Trailer Discnt	1	N	1	N	1	N	1	N	1	N
LITY TOTAL ----->										

	Rating		Rating		Rating		Rating		Rating	
SICAL DAMAGE										
st New	36,312		55,000		32,000		20,000		60,000	
timated Value	36,312		19,000		10,000		7,500		24,000	
preciated Value	28,119		21,275		8,155		5,096		27,422	
mping Code	N		N		N		N		N	
mping Deductible										
ating Capacity										
ting Code/Line Code	65		63		65		63		63	
ting Factor %										
ated Amount/Zones	Y 00-00		Y 00-00		Y 00-00		Y 00-00		Y 00-00	
ned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
	Amount		Amount		Amount		Amount		Amount	
ss of Use	3,000		3,000		3,000		3,000		3,000	
ntal Reimbursement										
rops/Chains (cost new)										
/Telephone Value										
om. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
omprehensive	1,000		1,000		1,000		1,000		1,000	
ecified Causes of Loss										
ollision	1,000		1,000		1,000		1,000		1,000	
YSICAL DAMAGE TOTAL -->										

remium to Value %	2.60		6.16		5.24		11.96		4.78	
EMIUM TOTAL per UNIT -->										

ate Surchg/Tax - Code										
. Surchg/Tax - Code										
ty Surchg/Tax - Code										
ITAL per UNIT -->										

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.H.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996

Endorsement Number...: 2
Endorsement Effective: 04/18/1995

IT # 11 CHANGED *****

ar Trade	Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
93	L	TANK TRLR	1J9P4AT21P2001084	C	50000	IN	67521	220	PA	81	10	WILLIAMSPORT		

ENDORSEMENT SCHEDULE CHANGES

NUMBER	FORM / ENDORSEMENT DESCRIPTION
DDDED L 1063 03 93	SCHEDULE OF COVERED AUTOS
EPLACE CA9944 12 93A	LOSS PAYABLE CLAUSE FOR: JERSEY SHORE STATE BANK

ENDORSEMENT TOTAL 0

Agent:

SUSQUEHANNA INS. ASSOC., INC.
6 E. 18TH STREET

SELINGROVE PA 17870

5520/0000

Authorized Representative

Endorsement Issued: 6/12/95

THANNING

Insureds Name: JIM ENTERPRISES, IN

SCHEDULE OF COVERED AUTO CHANGES
(Per Endorsement No: 2)

Page: 1

LIABILITY COVERAGE AFFORDED TO A SCHEDULED POWER UNIT A L S O APPLIES TO A N Y ATTACHED
TRAILER O R SEMI-TRAILER S U B J E C T TO ALL CONDITIONS AND OTHER TERMS OF THE POLICY.

T#	Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City
11	1993	J & L	TANK TRLR	-S 1J9P4AT21P2001084	C	50000	IN	67521	220	PA	81		10	WILLIAMSPORT

Policy # PAP 185770 0495 Insured's Name ENTERPRISES, INC.

Page: 2

----- COVERAGE and PREMIUM BREAKDOWN -----
 (Per Endorsement No: 2)

Policy Unit Number Insureds Unit Number	----- UNITS -----									
	11									
	CHANGE									
ABILITY	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
Personal Injury Protection	UNHOOKED									
Additional Benefits	COVERAGE									
Medical Expense										
Work Loss										
Accidental Death										
Funeral Expense										
Disabled First Party										
Catastrophic Medical										
Medical Payments										
Collateral Damage										
Insured Motorist										
Uninsured Motorist										
Hired/Non-Owned	OWNED									
Property Damage Deductible										
Deductible Factor										
Rating Code/Line Code	65									
Rating Factor %										
Group/Trailer Discount	1 N									
UNIT TOTAL ----->										

COLLATERAL DAMAGE	Rating		Rating		Rating		Rating		Rating	
Estimated New	36,312									
Estimated Value	36,312									
Allocated Value	28,120									
Rating Code	N									
Rating Deductible										
Rating Capacity										
Rating Code/Line Code	65									
Rating Factor %										
Estimated Amount/Zones	Y 00-00									
Hired/Non-Owned	OWNED									
	Amount		Amount		Amount		Amount		Amount	
Amount of Use	3,000									
Partial Reimbursement										
Parts/Chains (cost new)										
Telephone Value										
Amount included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000									
Specified Causes of Loss	1,000									
Collision										
SICIL DAMAGE TOTAL -->										

Minimum to Value %	2.60									
MIUM TOTAL per UNIT -->										

Rate Surcharge/Tax - Code										
Surcharge/Tax - Code										
Rate Surcharge/Tax - Code										
Rate per UNIT -->										

LINCOLN GENERAL INSURANCE COMP
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

is endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here
th, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix..... PAP
Policy Number..... 1857700495
Policy Period..... 04/18/1995 to 04/18/1996
Endorsement Number... 3
Endorsement Effective: 06/01/1995

***** DRIVER(S) CHANGED *****

NAME OF A CURRENTLY INCLUDED DRIVER ON FORM L1025 HAS BEEN CHANGED TO READ AS FOLLOWS:

CHANGED - SEQ # 0003

DRIVER NAME
WILLIAM T BROWN

BIRTH DATE OPERATOR NUMBER
12/29/60 19052931

STATE SOC.SEC.NO. MVR
PA 182-52-0275 Y

***** DRIVER(S) DELETED *****

M L1025 IS REPLACED ON THE POLICY BECAUSE OF THE DELETION OF ACTIVE DRIVER:

VER DELETED - SEQ # 0011

RIVER NAME
JUSTY FRY

BIRTH DATE OPERATOR NUMBER
11/26/58 18329847

STATE SOC.SEC.NO. MVR
PA R

***** DRIVER(S) DELETED *****

M L1025 IS REPLACED ON THE POLICY BECAUSE OF THE DELETION OF ACTIVE DRIVER:

DELETED - SEQ # 0015

RIVER NAME
CHRIS HABERSTROH

BIRTH DATE OPERATOR NUMBER
12/25/54 17789257

STATE SOC.SEC.NO. MVR
PA R

***** DRIVER(S) ADDED *****

M L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

VER ADDED - SEQ # 0032

RIVER NAME
ROBERT BROWN

BIRTH DATE OPERATOR NUMBER
12/20/32 RD309311

STATE SOC.SEC.NO. MVR
OH N

LINCOLN GENERAL INSURANCE COMP
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 2

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Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996
Endorsement Number...: 3
Endorsement Effective: 06/01/1995

***** DRIVER(S) ADDED *****

ORM L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

RIVER ADDED - SEQ # 0033

DRIVER NAME
CHARLES COCHRAN

BIRTH DATE OPERATOR NUMBER
7/01/67 21284745

STATE SOC.SEC.NO. MVR
PA Y

***** DRIVER(S) ADDED *****

ORM L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

RIVER ADDED - SEQ # 0034

DRIVER NAME
RICHARD E FREDERICK

BIRTH DATE OPERATOR NUMBER
12/16/53 16331001

STATE SOC.SEC.NO. MVR
PA Y

***** DRIVER(S) ADDED *****

ORM L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

RIVER ADDED - SEQ # 0035

DRIVER NAME
MICHAEL FREEZER

BIRTH DATE OPERATOR NUMBER
1/15/55 16547100

STATE SOC.SEC.NO. MVR
PA Y

***** DRIVER(S) ADDED *****

ORM L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

RIVER ADDED - SEQ # 0036

DRIVER NAME
THOMAS HEATH

BIRTH DATE OPERATOR NUMBER
6/09/51 15282772

STATE SOC.SEC.NO. MVR
PA Y

LINCOLN GENERAL INSURANCE COMP
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 3

is endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here
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Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix..... PAP
Policy Number..... 1857700495
Policy Period..... 04/18/1995 to 04/18/1996
Endorsement Number.... 3
Endorsement Effective: 06/01/1995

***** DRIVER(S) ADDED *****

M L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

VER ADDED - SEQ # 0037

DRIVER NAME
WILLIAM L HERB, SR

BIRTH DATE OPERATOR NUMBER
4/19/53 16842177

STATE SOC.SEC.NO. MVR
PA Y

***** DRIVER(S) ADDED *****

M L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

VER ADDED - SEQ # 0038

RIVER NAME
ALPH JONES

BIRTH DATE OPERATOR NUMBER
5/24/64 20452332

STATE SOC.SEC.NO. MVR
PA Y

***** DRIVER(S) ADDED *****

M L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

VER ADDED - SEQ # 0039

R NAME
S KIRESKI

BIRTH DATE OPERATOR NUMBER
1/15/49 15535045

STATE SOC.SEC.NO. MVR
PA Y

***** DRIVER(S) ADDED *****

M L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

VER ADDED - SEQ # 0040

RIVER NAME
ICHARD NICHOLS

BIRTH DATE OPERATOR NUMBER
1/16/54 16394860

STATE SOC.SEC.NO. MVR
PA Y

LINCOLN GENERAL INSURANCE COMP
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 4

endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:
JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.
WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996
Endorsement Number....: 3
Endorsement Effective: 06/01/1995

***** DRIVER(S) ADDED *****

L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

ER ADDED - SEQ # 0041

DR NAME	BIRTH DATE	OPERATOR NUMBER	STATE	SOC.SEC.NO.	HVR
LO REED	10/08/60	19107192	PA		Y

***** DRIVER(S) ADDED *****

L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

ER ADDED - SEQ # 0042

IVER NAME	BIRTH DATE	OPERATOR NUMBER	STATE	SOC.SEC.NO.	HVR
ITH SUMNER	11/22/55	16983979	PA		Y

5 DELETED *****

Trade Name	Body Type	Serial Number	Bus Use	GVN	Codes	Pro-Rated Premium
TRUEHAUF	TRAILER	UNE290102	C	50000	IN 67521 380 PA 81	10 WILLIAMSPORT

Liability Coverage	DELETED from UNIT #	5	ANNUAL \$	122	107-
Physical Damage Coverage	DELETED from UNIT #	5	ANNUAL \$	207	182-
FOLLOWING LOSS PAYEE	REMOVED FROM UNIT #	5			

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

LINCOLN GENERAL INSURANCE COMP
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 5

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here
with, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996
Endorsement Number....: 3
Endorsement Effective: 06/01/1995

ENDORSEMENT SCHEDULE CHANGES

	NUMBER	FORM / ENDORSEMENT DESCRIPTION
DED	L 1063 03 93	SCHEDULE OF COVERED AUTOS
DED	L 1025 02 92	DRIVER SCHEDULE
PLACE	CA9944 12 93A	LOSS PAYABLE CLAUSE FOR: JERSEY SHORE STATE BANK
		ENDORSEMENT TOTAL 289-

Agent:

SUSQUEHANNA INS. ASSOC., INC.
6 E. 18TH STREET

SELINGROVE PA 17870

5520/0000

Authorized Representative

Endorsement Issued: 8/01/95

SYOUNG

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

8/01/95

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701

Re: Policy Number: PAP 1857700495

Insured.....: JHM ENTERPRISES, INC.

Gentlemen:

Please be advised that the unit described below has been DELETED
from the subject policy effective 06/01/1995:

Unit#	Mdl	Yr	---Make---	---Type---	-----Serial Number-----
5	1967		FRUEHAUF	TRAILER	UNEF290102

Therefore, your interest is NULL and VOID effective 06/01/1995.

Sincerely

LINCOLN GENERAL INSURANCE COMPANY

UNDERWRITING DEPARTMENT

cc: SUSQUEHANNA INS. ASSOC., INC.

Insureds Name: JHM ENTERPRISES, INC.

SCHEDULE OF COVERED AUTO CHANGES
(Per Endorsement No: 3)

Page: 1

LIABILITY COVERAGE AFFORDED TO A SCHEDULED POWER UNIT ALSO APPLIES TO ANY ATTACHED
TRAILER OR SEMI-TRAILER SUBJECT TO ALL CONDITIONS AND OTHER TERMS OF THE POLICY.

T#	Year	Trade Name	Body Type	Serial Number	Bus	GVH	Codes						
					Use	GCN	Dis	Class	Pc	St	Cnty	City	Terr
5	1967	TRUEHAUF	TRAILER	-S UNEF290102	C	50000	TN	67521	380	PA	81		10 WILLIAMSPORT

Policy # PAP 185770 0495 Insureds Name. JLM ENTERPRISES, INC.

Page: 2

----- COVERAGE and PREMIUM BREAKDOWN -----
 (Per Endorsement No: 3)

Company Unit Number Insureds Unit Number	UNITS									
	5 7 DELETED									
LIABILITY	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
Liability	UNHOOKED	107-								
Personal Injury Protection	COVERAGE									
Additional Benefits										
Medical Expense										
Work Loss										
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage										
UNinsured Motorist										
UNDERinsured Motorist										
Owned/Hired	OWNED									
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	65									
Rating Factor %										
Zone Group/Trailer Discnt	1 N									
L IABILITY TOTAL ----->		107-								

	Rating		Rating		Rating		Rating		Rating	
PHYSICAL DAMAGE										
Cost New	25,000									
Estimated Value	4,000									
Depreciated Value	6,371									
Dumping Code	N									
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	65									
Rating Factor %										
Stated Amount/Zones	Y 00-00									
Owned/Hired	OWNED									
	Amount		Amount		Amount		Amount		Amount	
Loss of Use										
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(In rem. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Com. Comprehensive	1,000	65-								
Specified Causes of Loss										
Collision	1,000	117-								
PHYSICAL DAMAGE TOTAL -->		182-								

Premium to Value %	5.18									
PREMIUM TOTAL per UNIT -->		289-								

State Surchg/Tax - Code										
Co. Surchg/Tax - Code										
City Surchg/Tax - Code										
TOTAL per UNIT -->										

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996

Endorsement Number...: 4
Endorsement Effective: 07/10/1995

```

# 6 CHANGED *****
Trade Name Body Type Serial Number Bus GVW Codes Pro-Rated
Use GCW Dis Class Pc St Cnty City Terr Garaging City Premium

EHAUF TRAILER UNJ325401 C 50000 IN 67521 380 PA 81 10 WILLIAMSPORT
PAL - Liability Coverage DELETED from UNIT # 6 ANNUAL $ 122 . . . . 94-
Physical Damage Coverage CHANGED on UNIT # 6 ANNUAL $ 73 . . . . 115-

# 8 CHANGED *****
Trade Name Body Type Serial Number Bus GVW Codes Pro-Rated
Use GCW Dis Class Pc St Cnty City Terr Garaging City Premium

TRLMOBILE TRAILER K41316 C 50000 IN 67521 380 PA 81 10 WILLIAMSPORT
PAL - Liability Coverage DELETED from UNIT # 8 ANNUAL $ 122 . . . . 94-
Physical Damage Coverage CHANGED on UNIT # 8 ANNUAL $ 93 . . . . 128-

# 9 CHANGED *****
Trade Name Body Type Serial Number Bus GVW Codes Pro-Rated
Use GCW Dis Class Pc St Cnty City Terr Garaging City Premium

TRLMOBILE TRAILER K41317 C 50000 IN 67521 380 PA 81 10 WILLIAMSPORT
PAL - Liability Coverage DELETED from UNIT # 9 ANNUAL $ 122 . . . . 94-
Physical Damage Coverage CHANGED on UNIT # 9 ANNUAL $ 93 . . . . 128-

10 CHANGED *****
Trade Name Body Type Serial Number Bus GVW Codes Pro-Rated
Use GCW Dis Class Pc St Cnty City Terr Garaging City Premium

TRLMOBILE TRAILER K41318 C 50000 IN 67521 380 PA 81 10 WILLIAMSPORT
PAL - Liability Coverage DELETED from UNIT # 10 ANNUAL $ 122 . . . . 94-
Physical Damage Coverage CHANGED on UNIT # 10 ANNUAL $ 93 . . . . 128-

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LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 2

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996

Endorsement Number....: 4
Endorsement Effective: 07/10/1995

UNIT # 14 DELETED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
1986	FREIGHTLIN	TRACTOR	1FUPYDYB9GP287269	C	50000	IN	50521	380	PA	81	10	WILLIAMSPORT		
	Liability Coverage DELETED from UNIT #			14										3026
	Physical Damage Coverage DELETED from UNIT #			14										905
THE FOLLOWING LOSS PAYEE REMOVED FROM UNIT # 14														

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701-0000

UNIT # 18 ADDED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
1980	FRUEHAUF	TRAILER	OMT004309	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		
	PAL - Liability Coverage ADDED to UNIT #			18										94
	Physical Damage Coverage ADDED to UNIT #			18										803

UNIT # 19 ADDED *****

Year	Trade Name	Body Type	Serial Number	Bus Use	GVW	Dis	Class	Pc	St	Cnty	City	Terr	Garaging City	Pro-Rated Premium
1980	GREAT DANE	TRAILER	B17876	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT		
	PAL - Liability Coverage ADDED to UNIT #			19										94
	Physical Damage Coverage ADDED to UNIT #			19										550

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 3

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.H.

WILLIAMSPORT PA 17701-0000

Policy Prefix..... PAP
Policy Number..... 1857700495
Policy Period..... 04/18/1995 to 04/18/1996
Endorsement Number.... 4
Endorsement Effective: 07/10/1995

ENDORSEMENT SCHEDULE CHANGES

	NUMBER	FORM / ENDORSEMENT DESCRIPTION
ADDED	L 1063 03 93	SCHEDULE OF COVERED AUTOS
REPLACE	CA9944 12 93A	LOSS PAYABLE CLAUSE FOR: JERSEY SHORE STATE BANK

ENDORSEMENT TOTAL 3,265-

Agent:

SUSQUEHANNA INS. ASSOC., INC.
6 E. 18TH STREET

SELINGSGROVE

PA 17870

5520/0000

Authorized Representative

Endorsement Issued: 8/01/95

SYOUNG

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

8/01/95

JERSEY SHORE STATE BANK
300 MARKET STREET

WILLIAMSPORT PA 17701

Re: Policy Number: PAP 1857700495
Insured.....: JHM ENTERPRISES, INC.

Gentlemen:

Please be advised that the unit described below has been DELETED
from the subject policy effective 07/10/1995:

Unit#	Mdl	Yr	---Make---	---Type---	-----Serial Number-----
14	1986		FREIGHTLIN	TRACTOR	1FUPYDYB9GP287269

Therefore, your interest is NULL and VOID effective 07/10/1995.

Sincerely
LINCOLN GENERAL INSURANCE COMPANY

UNDERWRITING DEPARTMENT

cc: SUSQUEHANNA INS. ASSOC., INC.

Insureds Name: JHM ENTERPRISES, INC

SCHEDULE OF COVERED AUTO CHANGE
(Per Endorsement No: 4)

Page: 1

LIABILITY COVERAGE AFFORDED TO A SCHEDULED POWER UNIT A L S O APPLIES TO A N Y ATTACHED
TRAILER O R SEMI-TRAILER S U B J E C T TO ALL CONDITIONS AND OTHER TERMS OF THE POLICY.

IIT#	Year	Trade Name	Body Type	Serial Number	Bus Use	GVW GCM	Codes -----						
							Dis	Class	Pc	St	Cnty	City	Terr
6	1969	FRUEHAUF	TRAILER	-S UNJ325401	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT
8	1974	TRLMOBILE	TRAILER	-S K41316	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT
9	1974	TRLMOBILE	TRAILER	-S K41317	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT
10	1974	TRLMOBILE	TRAILER	-S K41318	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT
14	1986	FREIGHTLIN	TRACTOR	1FUPYDYB9GP287269	C	50000	IN	50521	380	PA	81	10	WILLIAMSPORT
18	1980	FRUEHAUF	TRAILER	-S OHT004309	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT
19	1980	GREAT DANE	TRAILER	-S B17876	C	50000	IN	67521	380	PA	81	10	WILLIAMSPORT

Policy # PAP 185770 0495 Insureds Nam. JIM ENTERPRISES, INC.

Page: 2

----- COVERAGE and PREMIUM BREAKDOWN
(Per Endorsement No: 4)

Company Unit Number Insureds Unit Number	UNITS									
	6		8		9		10		14	
	8		10		11		12		DELETED	
	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
LIABILITY	UNHOOKED	94-	UNHOOKED	94-	UNHOOKED	94-	UNHOOKED	94-	750,000	2968-
Liability	CHANGE		CHANGE		CHANGE		CHANGE		5,000	44-
Personal Injury Protection										
Additional Benefits										
Medical Expense										
Work Loss									5,000	7-
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage										
UNinsured Motorist									35,000	5-
UNDERinsured Motorist									35,000	2-
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	65		65		65		65		63	
Rating Factor %										
Zo-- Group/Trailer Discnt	1 N		1 N		1 N		1 N		1 N	
L LITY TOTAL ----->		94-		94-		94-		94-		3,026-

PHYSICAL DAMAGE	Rating		Rating		Rating		Rating		Rating	
Cost New	20,000		25,000		25,000		25,000		55,000	
Estimated Value	4,000		5,000		5,000		5,000		19,000	
Depreciated Value	5,099		6,374		6,374		6,374		21,275	
Dumping Code	N		N		N		N		N	
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	65		65		65		65		63	
Rating Factor %										
Stated Amount/Zones	Y 00-00		Y 00-00		Y 00-00		Y 00-00		Y 00-00	
Owned/Hired	OWNED		OWNED		OWNED		OWNED		OWNED	
	Amount		Amount		Amount		Amount		Amount	
Loss of Use										
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(rem. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000		1,000		1,000		1,000		1,000	310-
Specified Causes of Loss										
Collision		115-		128-		128-		128-	1,000	595-
PHYSICAL DAMAGE TOTAL ->		115-		128-		128-		128-		905-

Premium to Value %	1.83		1.86		1.86		1.86		6.16	
PREMIUM TOTAL per UNIT ->		209-		222-		222-		222-		3931-

State Surchg/Tax - Code										
Co. Surchg/Tax - Code										
City Surchg/Tax - Code										
TOTAL per UNIT ->										

Policy # PAP 185770 0495 Insureds Nam IM ENTERPRISES, INC.

Page: 3

----- COVERAGE and PREMIUM BREAKDOWN
(Per Endorsement No: 4)

Company Unit Number Insureds Unit Number	----- UNITS -----									
	18		19		CHANGE		CHANGE		DELETED	
	ADD		ADD		Rating	Premium	Rating	Premium	Rating	Premium
LIABILITY	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium	Rating	Premium
Liability	UNHOOKED	94	UNHOOKED	94						
Personal Injury Protection	COVERGE		COVERGE							
Additional Benefits										
Medical Expense										
Work loss										
Accidental Death										
Funeral Expense										
Combined First Party										
Catastrophic Medical										
Medical Payments										
Punitive Damage										
UNinsured Motorist										
UNDERinsured Motorist										
Owned/Hired	OWNED		OWNED							
Property Dmg Deductible										
PD Deductible Factor										
Rating Code/Line Code	65		65							
Rating Factor %										
Zer-- Group/Trailer Disent	1 N		1 N							
L LITY TOTAL ----->		94		94						

PHYSICAL DAMAGE	Rating		Rating		Rating		Rating		Rating	
Cost New	16,000		11,000							
Estimated Value	15,000		9,000							
Depreciated Value	4,079		2,805							
Dumping Code	N		N							
Dumping Deductible										
Seating Capacity										
Rating Code/Line Code	65		65							
Rating Factor %										
Stated Amount/Zones	Y 00-00		Y 00-00							
Owned/Hired	OWNED		OWNED							
	Amount		Amount		Amount		Amount		Amount	
Loss of Use	3,000		3,000							
Rental Reimbursement										
Tarps/Chains (cost new)										
CB/Telephone Value										
(--am. included in comp)										
	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium	Deductible	Premium
Comprehensive	1,000	264	1,000	163						
Specified Causes of Loss										
Collision	1,000	539	1,000	387						
PHYSICAL DAMAGE TOTAL ->		803		550						

Premium to Value %	6.93		7.91							
PREMIUM TOTAL per UNIT ->		897		644						

State Surchg/Tax - Code										
Co. Surchg/Tax - Code										
City Surchg/Tax - Code										
TOTAL per UNIT ->										

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here with, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996
Endorsement Number...: 5
Endorsement Effective: 08/10/1995

***** DRIVER(S) DELETED *****

FORM L1025 IS REPLACED ON THE POLICY BECAUSE OF THE DELETION OF ACTIVE DRIVER:

DRIVER DELETED - SEQ # 0032

OPERATOR NAME
ROBERT BROWN

BIRTH DATE OPERATOR NUMBER
12/20/32 RD309311

STATE SOC.SEC.NO. MVR
OH N

ENDORSEMENT SCHEDULE CHANGES

NUMBER	FORM / ENDORSEMENT DESCRIPTION
ADDED	L 1025 02 92 DRIVER SCHEDULE

ENDORSEMENT TOTAL 0

Agent:

SUSQUEHANNA INS. ASSOC., INC.
6 E. 18TH STREET

SELINSGROVE

PA 17870

5520/0000

Authorized Representative

Endorsement Issued: 8/22/95

SYOUNG

HOME OFFICE COPY

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996

Endorsement Number...: 6
Endorsement Effective: 09/19/1995

***** DRIVER(S) DELETED *****

FORM L1025 IS REPLACED ON THE POLICY BECAUSE OF THE DELETION OF ACTIVE DRIVER:

DRIVER DELETED - SEQ # 0009

DRIVER NAME
RICHARD A FREDERICKS

BIRTH DATE OPERATOR NUMBER
3/22/31 06835773

STATE SOC.SEC.NO. MVR
PA R

ENDORSEMENT SCHEDULE CHANGES

	NUMBER	FORM / ENDORSEMENT DESCRIPTION
ADDED	L 1025 02 92	DRIVER SCHEDULE

ENDORSEMENT TOTAL 0

Agent:

SUSQUEHANNA INS. ASSOC., INC.
6 E. 18TH STREET

SELINGROVE PA 17870

5520/0000

Authorized Representative

Endorsement Issued: 9/27/95

SYOUNG

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent here
with, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:

JHM ENTERPRISES, INC.
1200 VALLAMONT DRIVE, N.W.

WILLIAMSPORT PA 17701-0000

Policy Prefix..... PAP
Policy Number..... 1857700495
Policy Period..... 04/18/1995 to 04/18/1996

Endorsement Number... 7
Endorsement Effective: 09/19/1995

***** DRIVER(S) DELETED *****

FORM L1025 IS REPLACED ON THE POLICY BECAUSE OF THE DELETION OF ACTIVE DRIVER:

DRIVER DELETED - SEQ # 0034

DRIVER NAME
RICHARD E FREDERICK

BIRTH DATE OPERATOR NUMBER
12/16/53 16331001

STATE SOC.SEC.NO. MVR
PA R

ENDORSEMENT SCHEDULE CHANGES

	NUMBER	FORM / ENDORSEMENT DESCRIPTION
ADDED	L 1025 02 92	DRIVER SCHEDULE

ENDORSEMENT TOTAL 0

Agent:

SUSQUEHANNA INS. ASSOC., INC.
6 E. 18TH STREET

SELINGROVE

PA 17870

5520/0000

Authorized Representative

Endorsement Issued: 10/02/95

SYOUNG

LINCOLN GENERAL INSURANCE COMPANY
3350 WHITEFORD ROAD
YORK, PA 17402

GENERAL CHANGE ENDORSEMENT

PAGE: 1

This endorsement is subject to the declarations, conditions, and other terms of the policy which are not inconsistent herewith, and when countersigned by an authorized representative of the company, forms a part of the policy described herein.

Insured:
JHM ENTERPRISES, INC.
1200 VALLAHONT DRIVE, N.W.
WILLIAMSPORT PA 17701-0000

Policy Prefix.....: PAP
Policy Number.....: 1857700495
Policy Period.....: 04/18/1995 to 04/18/1996
Endorsement Number...: 8
Endorsement Effective: 09/19/1995

***** DRIVER(S) ADDED *****

FORM L1025 IS ADDED OR REPLACED IN THE POLICY TO INCLUDE THE FOLLOWING DRIVERS:

OPERATOR ADDED - SEQ # 0043

DRIVER NAME
RICHARD A FREDERICKS

BIRTH DATE OPERATOR NUMBER
3/22/31 06835773

STATE SOC.SEC.NO. MVR
PA N

ENDORSEMENT SCHEDULE CHANGES

	NUMBER	FORM / ENDORSEMENT DESCRIPTION
ADDED	L 1025 02 92	DRIVER SCHEDULE

ENDORSEMENT TOTAL 0

Agent: SUSQUEHANNA INS. ASSOC., INC. 5520/0000
6 E. 18TH STREET
SELINGROVE PA 17870

Authorized Representative
Endorsement Issued: 10/12/95

DMUMMERT

HOME OFFICE COPY

Attached to and forming part
ISSUED TO: JHM ENTERPRISES, I.C.

Policy Number PAP 1857700495

EFI

04/18/1995 TO 04/18/1996

ENDORSEMENT SCHEDULE

NUMBER	FORM / ENDORSEMENT DESCRIPTION
PAP 0002 08 93	DECLARATION PAGE
L 1063 03 93	SCHEDULE OF COVERED AUTOS
L 1025 02 92	DRIVER SCHEDULE
CA 99 28 06 92	STATED AMOUNT INSURANCE
CA00121293A	TRUCKERS COVERAGE FORM
L 1091 05 93	LOSS OF USE COVERAGE
OMB 3120 00 86	ENDMT FOR MOTOR CARRIER ... UNDER SECTION 10927, TITLE 49 ...
IRB 3538A 0492	FORM F - UNIFORM MOTOR CARRIER ... INSURANCE ENDORSEMENT
OMB 2125 00 74	ENDMT FOR MOTOR CARRIER ... UNDER SECTION 29 AND 30 ... ACT OF 1980
CA 22 37 12 92	PENNSYLVANIA BASIC FIRST PARTY BENEFIT
CA 22 38 07 90	PENNSYLVANIA ADDED AND COMBINED FIRST PARTY BENEFITS ENDORSEMENT
CA 21 92 07 90	PENNSYLVANIA UNINSURED MOTORIST COVERAGE - NOT STACKED
CA 21 93 07 90	PENNSYLVANIA UNDERINSURED MOTORIST COVERAGE - NOT STACKED
L 1003 06 92	PUNITIVE, EXEMPLARY AND EXTRA CONTRACTUAL DAMAGE EXCLUSION
CA 23 05 01 87	WRONG DELIVERY OF LIQUID PRODUCTS
IL 00 21 11 85	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
L 1087 06 92	CHANGES - OTHER INSURANCE HIRED AUTO PHYSICAL DAMAGE COVERAGE
IL 00 17 11 85	COMMON POLICY CONDITIONS
IL 02 46 06 89	PENNSYLVANIA CHANGES - CANCELLATION AND NONRENEHAL
CA 01 80 07 90	PENNSYLVANIA CHANGES
IL 09 10 01 81	PENNSYLVANIA NOTICE
IM 10 73 05 91	MOTOR TRUCK CARGO INSURANCE/TRANSIT AND LOCATION COVERAGE (BROAD FORM)
IM 100 84	AGREEMENT - INLAND MARINE GENERAL TERMS
CL 100 84	COMMON POLICY CONDITIONS
L 7020 02 92	NOTICE OF RIGHT TO INSPECTION
L 1064 07 91	ENDORSEMENT SCHEDULE



TRUCKERS COVERAGE PART DECLARATIONS

☐ Check here if PART 2 is attached

Coverage is provided in Company checked
 NORTHLAND INSURANCE COMPANY
 NORTHLAND CASUALTY COMPANY
 NORTHFIELD INSURANCE COMPANY
 9-25-92 St. Paul, MN 55120
 STOCK COMPANIES

ITEM ONE - NAMED INSURED AND ADDRESS

Coolever Brothers Transportation, Inc.

 P.O. Box 156
 Montoursville, PA 17754

Garaging address if different

50 Jordan Ave., Montoursville, PA

 Policy Period
 From 9/01/95
 To 9/01/96
 12:01 A.M. Standard Time
 at Named "Insured's"
 Garaging address
 Business of Named "Insured":
 Truckmen

 Individual
 Partnership
 Corporation
 Joint Venture
 Other

 POLICY NO.
 T F209197

 PREVIOUS POLICY NO.
 New

 AGENCY NO.
 308499308000

BRANCH SOURCE

ITEM TWO - SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those autos shown as Covered "Autos." "Autos" are shown as Covered "Autos" for a particular coverage by the entry of one or more of the Symbols listed in Section 1A of the Truckers Coverage Form next to the name of the coverage.

Covered "Autos"	COVERAGES	LIMITS OF LIABILITY	PREMIUM
43	(1) BODILY INJURY-BI	\$ each person \$ each "accident"	\$
	(2) PROPERTY DAMAGE-PD	\$ each "accident"	\$
	COMBINED (1) AND (2)-CSL	\$ 2,000,000 each "accident"	\$
43	PERSONAL INJURY PROTECTION-PIP (or equivalent No-Fault coverage)	Separately Stated in each PIP endorsement	\$
	ADDED PIP (or equivalent No-Fault coverage)	Separately Stated in each added PIP endorsement	\$
	PROPERTY PROTECTION-PPI (Michigan Only)	Separately Stated in PPI endorsement	\$
	"AUTO" MEDICAL PAYMENTS	\$	\$
43	UNINSURED MOTORISTS-UM	BI \$ 35,000 each person \$ 35,000 each "accident"	\$
		PD \$ each "accident"	\$
		CSL \$ each "accident"	\$
43	UNDERINSURED MOTORISTS-UIM	BI \$ 35,000 each person \$ 35,000 each "accident"	\$
		PD \$ each "accident"	\$
		CSL \$ each "accident"	\$
	CARGO	\$ each covered "auto", less the deductible	\$
	COMPREHENSIVE		\$
	SPECIFIED PERILS	Stated Amount, Actual Cash Value or Cost of Repairs, whichever is less minus the deductible.	\$
	COLLISION		\$

ADDITIONAL PREMIUM PER ENDORSEMENTS:

FORMS AND ENDORSEMENTS CONTAINED IN THIS POLICY AT ITS INCEPTION:

01, T001, T217, T237, CA0012, CA2237, CA0180, CA2192, CA2193

N1292 N2350, N2637 N2054

 ESTIMATED TOTAL PREMIUM
 (Refer to Section 5B of the Truckers Coverage Form for explanation)

\$ - SEE ITEM TEN

ITEM THREE - HIRED AUTO LIABILITY INSURANCE

ESTIMATED COST OF HIRE \$

Rate per \$100 Cost of Hire	\$	BI	\$	BI	\$	BI	\$
	\$	PD	\$	PD	\$	PD	\$
	\$	CSL	\$	CSL	\$	CSL	\$

Cost of hire means the total cost you incur for the hire of "autos" you don't own. (See covered "auto" symbol 47.)

ITEM FOUR - SCHEDULE OF COVERED AUTOS YOU OWN

Year	Model	Trade Name	Body Type	Identification Number	Loss Payee
1				See Attached Schedule - Form #T-001	
2					
LIABILITY PREMIUMS					
BI/CSL	PD	PIP	PPI	UM	OTHER
1	See #T-001				
2					
PHYSICAL DAMAGE PREMIUMS					
Comp S.P.	DED.	COLL.	DED.	RATE	PREM.
1					
2					

ITEM FIVE - NAMED LESSEE(S) AND ADDRESS

 Countersigned my my 9/13/9 19 5 By

THESE DECLARATIONS AND THE COMMON POLICY DECLARATIONS, IF APPLICABLE, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORMS(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY. Includes copyrighted material of Insurance Services Office, with its permission. Copyright Insurance Services Office, 1990

TYPIST: SET TYPEWRITER TABS AS SHOWN



**SUPPLEMENTARY TRUCKERS COVERAGE
PART DECLARATIONS
PART 2**

POLICY NO.
T

SIX - ADDITIONAL SYMBOLS (Refer to Truckers Coverage Form - Section 1A for symbols 41 - 50.)

Liab 64762 19830
PIP 955 .0145
DM 126 .0019
UIM 42 .0006
65885

SEVEN - SCHEDULE FOR NON-OWNERSHIP LIABILITY Rating E
Estimated Number of Employees ADVANCE PREMIUM BODILY INJURY
(This item is included in ITEM TWO LIABILITY) PROPERTY DAMAGE
COMBINED

EIGHT - SCHEDULE OF HIRED COVERED AUTO COVERAGE
PHYSICAL DAMAGE INSURANCE

COVERAGES	LIMIT OF LIABILITY	RATE
COMPREHENSIVE	\$ Actual Cash Value or Cost of Repairs, whichever is less minus the deductible	\$
SPECIFIED PERILS		\$
COLLISION		\$
PHYSICAL DAMAGE INSURANCE for covered "autos" you hire or borrow is excess unless stated below by an "S". If this box is checked, PHYSICAL DAMAGE COVERAGE applies on a direct primary basis and for purposes of the condition entitled OTHER INSURANCE, any covered "auto" you hire or borrow is deemed to be a covered "auto" you own.		TOTAL: \$

NINE - TRAILER INTERCHANGE INSURANCE

COVERAGES	LIMIT OF LIABILITY	RATE	MINIMUM PREMIUM
COMPREHENSIVE	\$ Actual Cash Value or Cost of Repairs, whichever is less minus the deductible	\$	\$
SPECIFIED PERILS		\$	\$
COLLISION		\$	\$
		TOTAL: \$	

Liab 64762
PIP 955
009 126
109 42

TEN - MONTHLY REPORTING POLICIES

COVERAGES	Rating Basis	ESTIMATED ANNUAL PREMIUMS			DEPOSIT PREMIUM 9344.00 \$ 8000.00 letter or credit 17344.
		Estimated Annual	Minimum Annual	Minimum Monthly	
ability, Basic PIP, Basic	3.66 per 100 miles per month	\$ 65885	59297	4914	MINIMUM PREMIUM
UIM		\$	\$	\$	\$
argo	.194 per 100 miles per month	\$ 3492	3143	262	<input checked="" type="checkbox"/> Monthly <input checked="" type="checkbox"/> Annually
Estimated annual gross receipts	\$ 1,800,000	\$ 69,377. TOTAL ESTIMATED ANNUAL PREMIUM			
mileage					
value of equipment	\$	For physical damage coverage the deductibles are:			\$ Comprehensive
number of owner-operators					\$ Specified Perils
					\$ Collision

See separate endorsements for reporting conditions and definitions.



Policy No.:

Issued to:

SCHEDULE OF AUTOMOBILES
(forming part of DECLARATIONS)

ITEM FOUR SUPPLEMENT

NO.	YEAR MODEL, TRADE NAME, BODY TYPE	ID NUMBER	LOSS PAYEE - LP	ADDITIONAL INSURED - AI
1	1983 Mack Tractor	084695		
2	1978 International Tractor	SH9464PA		
3	1985 Freightliner Tractor	P270395		
4	1989 Freightliner Tractor	370461		
5	1990 Freightliner Tractor	389238		
6	1991 White Tractor	637664		
7	1984 Peterbilt Tractor	171623		
8	1982 Freightliner Tractor	206459		
9	1987 Freightliner Tractor	303672		
10	1973 White Tractor	073921		
11	1978 Mack Tractor	T18760		
12	1986 Freightliner Tractor	291318		
13	1988 White Tractor	601032		
14	1985 Freightliner Tractor	256601		
15	1988 International Tractor	014548		
16	1977 Mack Tractor	T13891		
17	1985 International Tractor	CA12452		
18	1972 Mack Tractor	T29173		

NO.	LIABILITY PREMIUMS							STATED AMOUNT	PHYSICAL DAMAGE PREMIUMS				CARGO		
	CSL	BI	PD	PIP	MED PAY	UM	OTHER		<input type="checkbox"/> COMP	DED.	COLL	DED.	DED.	RATE	PREM.
									<input type="checkbox"/> S.P.						
1															
2															
3															
4															
5															
6															
7															
8															
9															
10															
11															
12															
13															
14															
15															
16															
17															
18															

COMMERCIAL AUTO
CA 00 12 12 93

TRUCKERS COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION VI - DEFINITIONS.

SECTION I - COVERED AUTOS

ITEM TWO of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. DESCRIPTION OF COVERED AUTO DESIGNATION SYMBOLS

SYMBOL DESCRIPTION

41 = ANY "AUTOS".

42 = OWNED "AUTOS" ONLY. Only the "autos" you own (and for Liability Coverage any "trailers" you don't own while connected to a power unit you own). This includes those "autos" you acquire ownership of after the policy begins.

43 = OWNED COMMERCIAL "AUTOS" ONLY. Only those trucks, tractors and "trailers" you own (and for Liability Coverage any "trailers" you don't own while connected to a power unit you own). This includes those trucks, tractors and "trailers" you acquire ownership of after the policy begins.

44 = OWNED "AUTOS" SUBJECT TO NO-FAULT. Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the No-Fault law in the state where they are licensed or principally garaged.

45 = OWNED "AUTOS" SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those "autos" you own that, because of the law in the state where they are licensed or principally garaged, are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.

46 = SPECIFICALLY DESCRIBED "AUTOS". Only those "autos" described in ITEM THREE of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in ITEM THREE).

47 = HIRED "AUTOS" ONLY. Only those "autos" you lease, hire, rent or borrow. This does not include any "private passenger type auto" you lease, hire, rent or borrow from any member of your household, any of your employees, partners or agents or members of their households.

48 = "TRAILERS" IN YOUR POSSESSION UNDER A WRITTEN TRAILER OR EQUIPMENT INTERCHANGE AGREEMENT. Only those "trailers" you do not own while in your possession under a written "trailer" or equipment interchange agreement in which you assume liability for "loss" to the "trailers" while in your possession.

49 = YOUR "TRAILERS" IN THE POSSESSION OF ANYONE ELSE UNDER A WRITTEN TRAILER INTERCHANGE AGREEMENT. Only those "trailers" you own or hire while in the possession of anyone else under a written "trailer" interchange agreement. When Symbol "49" is entered next to a Physical Damage Coverage in ITEM TWO of the Declarations, the Physical Damage Coverage exclusion relating to "loss" to a "trailer" in the possession of anyone else does not apply to that coverage.

50 = NONOWNED "AUTOS" ONLY. Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "private passenger type autos" owned by your employees or partners or members of their households but only while used in your business or your personal affairs.

B. OWNED AUTOS YOU ACQUIRE AFTER THE POLICY BEGINS

1. If symbols 41, 42, 43, 44 or 45 are entered next to a coverage in ITEM TWO of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if symbol 46 is entered next to a coverage in ITEM TWO of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. CERTAIN TRAILERS, MOBILE EQUIPMENT AND TEMPORARY SUBSTITUTE AUTOS

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. "Loss"; or
 - e. Destruction.

SECTION II - LIABILITY COVERAGE**A. COVERAGE**

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. WHO IS AN INSURED

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered "private passenger type auto".
 - (2) Your employee or agent if the covered "auto" is a "private passenger type auto" and is owned by that employee or agent or a member of his or her household.
 - (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
 - (4) Anyone other than your employees, partners, a lessee or borrower or any of their employees, while moving property to or from a covered "auto".
 - (5) A partner of yours for a covered "private passenger type auto" owned by him or her or a member of his or her household.

c. The owner or anyone else from whom you hire or borrow a covered "auto" that is a "trailer" while the "trailer" is connected to another covered "auto" that is a power unit; or, if not connected:

- (1) Is being used exclusively in your business as a "trucker"; and
- (2) Is being used pursuant to operating rights granted to you by a public authority.

d. The owner or anyone else from whom you hire or borrow a covered "auto" that is not a "trailer" while the covered "auto":

- (1) Is being used exclusively in your business as a "trucker"; and
- (2) Is being used pursuant to operating rights granted to you by a public authority.

e. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

However, none of the following is an "insured":

g. Any "trucker" or his or her agents or employees, other than you and your employees:

- (1) If the "trucker" is subject to motor carrier insurance requirements and meets them by a means other than "auto" liability insurance.
- (2) If the "trucker" is not insured for hired "autos" under an "auto" liability insurance form that insures on a primary basis the owners of the "autos" and their agents and employees while the "autos" are being used exclusively in the "truckers" business and pursuant to operating rights granted to the "trucker" by a public authority.

h. Any rail, water or air carrier or its employees, or agents, other than you and your employees, for a "trailer" if "bodily injury" or "property damage" occurs while the "trailer" is detached from a covered "auto" you are using and:

- (1) Is being transported by the carrier; or
- (2) Is being loaded on or unloaded from any unit of transportation by the carrier.

2. COVERAGE EXTENSIONS

a. **Supplementary Payments.** In addition to the Limit of Insurance, we will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$250 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$100 a day because of time off from work.
- (5) All costs taxed against the "insured" in any "suit" we defend.
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

b. **Out-of-State Coverage Extensions.**

While a covered "auto" is away from the state where it is licensed we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limit specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

EXCLUSIONS

This insurance does not apply to any of the following:

1. EXPECTED OR INTENDED INJURY

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. CONTRACTUAL

Liability assumed under any contract or agreement. But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

3. WORKERS' COMPENSATION

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. EMPLOYEE INDEMNIFICATION AND EMPLOYER'S LIABILITY

"Bodily injury" to:

- a. An employee of the "insured" arising out of and in the course of employment by the "insured"; or
- b. The spouse, child, parent, brother or sister of that employee as a consequence of paragraph a. above.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic employees not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract".

5. FELLOW EMPLOYEE

"Bodily injury" to any fellow employee of the "insured" arising out of and in the course of the fellow employee's employment.

6. CARE, CUSTODY OR CONTROL

"Property damage" to or "covered pollution" cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. HANDLING OF PROPERTY

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. MOVEMENT OF PROPERTY BY MECHANICAL DEVICE

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. OPERATIONS

"Bodily injury" or "property damage" arising out of the operation of any equipment listed in paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

10. COMPLETED OPERATIONS:

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In the exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
 - b. Materials, parts or equipment furnished in connection with such work or operations.
- Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in paragraphs a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed.

(2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.

(3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. POLLUTION

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

(1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

(2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. WAR

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

13. RACING

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. LIMIT OF INSURANCE

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined, resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III - TRAILER INTERCHANGE COVERAGE

COVERAGE

1. We will pay all sums you legally must pay as damages because of "loss" to a "trailer" you don't own or its equipment under:

a. Comprehensive Coverage. From any cause except:

(1) The "trailer's" collision with another object; or

(2) The "trailer's" overturn.

b. Specified Causes of Loss - Coverage. Caused by:

(1) Fire, lightning or explosion;

(2) Theft;

(3) Windstorm, hail or earthquake;

(4) Flood;

(5) Mischief or vandalism; or

(6) The sinking, burning, collision or derailment of any conveyance transporting the "trailer".

c. Collision Coverage. Caused by:

(1) The "trailer's" collision with another object; or

(2) The "trailer's" overturn.

2. We have the right and duty to defend any "insured" against a "suit" asking for these damages. However, we have no duty to defend any "insured" against a "suit" seeking damages for any "loss" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

3. COVERAGE EXTENSIONS

Supplementary Payments. In addition to the Limit of Insurance, we will pay for you:

a. All expenses we incur.

b. The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance.

c. All reasonable expenses incurred at our request, including actual loss of earnings up to \$100 a day because of time off from work.

d. All costs taxed against the "insured" in any "suit" we defend.

e. All interest on the full amount of any judgment that accrues after entry of the judgment; but our duty to pay interest ends when we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

B. EXCLUSIONS

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard.

(1) The explosion of any weapon employing atomic fission or fusion; or

(2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War or Military Action.

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for loss of use.

3. Other Exclusions.

We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

a. Wear and tear, freezing, mechanical or electrical breakdown.

b. Blowouts, punctures or other road damage to tires.

C. LIMIT OF INSURANCE AND DEDUCTIBLE

The most we will pay for "loss" to any one "trailer" is the least of the following amounts minus any applicable deductible shown in the Declarations:

1. The actual cash value of the damaged or stolen property at the time of the "loss".

2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

3. The Limit of Insurance shown in the Declarations.

SECTION IV - PHYSICAL DAMAGE COVERAGE

A. COVERAGE

1. We will pay for "loss" to a covered "auto" or its equipment under:

a. Comprehensive Coverage. From any cause except:

(1) The covered "auto's" collision with another object; or

(2) The covered "auto's" overturn.

b. Specified Causes of Loss Coverage. Caused by:

(1) Fire, lightning or explosion;

(2) Theft;

(3) Windstorm, hail or earthquake;

(4) Flood;

(5) Mischief or vandalism; or

(6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

c. Collision Coverage. Caused by:

(1) The covered "auto's" collision with another object; or

(2) The covered "auto's" overturn.

2. Towing - Private Passenger Autos.

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the "private passenger type" is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage - Hitting a Bird or Animal - Falling Objects or Missiles.

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

a. Glass breakage;

b. "Loss" caused by hitting a bird or animal; and

c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. Coverage Extension. We will also pay up to \$15 per day to a maximum of \$450 for transportation expense incurred by you because of the total theft of a covered "auto" of the "private passenger type". We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

B. EXCLUSIONS

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard.

(1) The explosion of any weapon employing atomic fission or fusion; or

(2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War or Military Action.

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any of the following:

a. Any covered "auto" while in anyone else's possession under a written trailer interchange agreement. But this exclusion does not apply to a loss payee; however, if we pay the loss payee, you must reimburse us for our payment.

b. Any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for any such contest or activity.

c. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

d. Equipment designed or used for the detection or location of radar.

e. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.

f. Any accessories used with the electronic equipment described in paragraph e. above.

Exclusions 2.e. and 2.f. do not apply to:

1. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system; in or upon the covered "auto"; or

2. Any other electronic equipment that is:

(1) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or

(2) An integral part of the same unit housing any sound reproducing equipment described in a. above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

3. Other Exclusions

We will not pay for "loss" caused by or resulting from any of the following, unless caused by other "loss" that is covered by this insurance:

- a. Wear and tear, freezing, mechanical or electrical breakdown.
- b. Blowouts, punctures or other road damage to tires.

C. LIMITS OF INSURANCE

The most we will pay for "loss" in any one "accident" is the lesser of:

- 1. The actual cash value of the damaged or stolen property as of the time of "loss"; or
- 2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

D. DEDUCTIBLE

For each covered "auto", our obligation to pay for repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION VII: TRUCKERS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

LOSS CONDITIONS

1. APPRAISAL FOR PHYSICAL DAMAGE LOSS

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

In the event of "accident", claim, suit or "loss", you must give us or our authorized representative prompt notice of the accident or "loss". Include:

- (1) How, when and where the "accident" or "loss" occurred;
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved "insured" must:

- (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
- (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit".
- (4) Authorize us to obtain medical records or other pertinent information.
- (5) Submit to examination at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is a "loss" to a covered "auto" or its equipment you must also do the following:

- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
- (4) Agree to examination under oath at our request and give us a signed statement of your answers.

3. LEGAL ACTION AGAINST US

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. LOSS PAYMENT - PHYSICAL DAMAGE COVERAGES

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. GENERAL CONDITIONS

1. BANKRUPTCY

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligation under this Coverage Form.

2. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

3. LIBERALIZATION

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. NO BENEFIT TO BAILEE - PHYSICAL DAMAGE COVERAGES

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. OTHER INSURANCE - PRIMARY AND EXCESS INSURANCE PROVISIONS

a. This Coverage Form's Liability Coverage is primary for any covered "auto" while hired or borrowed by you and used exclusively in your business as a "trucker" and pursuant to operating rights granted to you by a public authority. This Coverage Form's Liability Coverage is excess over any other collectible insurance for any covered "auto" while hired or borrowed from you by another "trucker". However, while a covered "auto" which is a "trailer" is connected to a power unit, this Coverage Form's Liability Coverage is:

- (1) On the same basis, primary or excess, as for the power unit if the power unit is a covered "auto".
- (2) Excess if the power unit is not a covered "auto".

b. Any Trailer Interchange Coverage provided by this Coverage Form is primary for any covered "auto".

c. Except as provided in paragraphs a. and b. above, this Coverage Form provides primary insurance for any covered "auto" you own and excess insurance for any covered "auto" you don't own.

d. For Hired Auto Physical Damage coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

e. Regardless of the provisions of paragraphs a., b. and c. above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".

f. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. PREMIUM AUDIT

a. The estimated premium for this Coverage Form is based on the exposures you told us you have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Form, we cover "accidents" and "losses" occurring:

a. During the policy period shown in the Declarations; and

b. Within the coverage territory.

The coverage territory is:

a. The United States of America;

b. The territories and possessions of the United States of America;

c. Puerto Rico; and

d. Canada.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION VI - DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads but does not include "mobile equipment".
- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand or order; or
2. Any claim or "suit" by or on behalf of a governmental authority demanding

that the "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

- (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered "auto";
- (2) Otherwise in the course of transit by or on behalf of the "insured";
- (3) Being stored, disposed of, treated or processed in or upon the covered "auto"; or

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into, onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in paragraphs 6.b. or 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

E. "Insured" means any person or organization qualifying as an insured in the Who is an Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

F. "Insured Contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

i. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;

6. That part of any contract or agreement, entered into, as part of your business, pertaining to the rental or lease, by you or any of your employees, of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your employees to pay for "property damage" to any "auto" rented or leased by you or any of your employees.

An "insured contract" does not include that part of any contract or agreement:

a. That indemnifies any person or organization for "bodily injury" or "property damage" arising out of construction or demolition operations; within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or

b. That pertains to the loan, lease or rental of an "auto" to you or any of your employees, if the "auto" is loaned, leased or rented with a driver; or

c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

"as" means direct and accidental loss or damage.

1. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

2. Vehicles maintained for use solely on or next to premises you own or rent;

3. Vehicles that travel on crawler treads;

4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

a. Power cranes, shovels, loaders, diggers or drills; or

b. Road construction or resurfacing equipment such as graders, scrapers or rollers;

5. Vehicles not described in paragraphs 1., 2., 3., or 4. above that are not self-propelled and

are maintained primarily to provide mobility to permanently attached equipment of the following types:

a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

b. Cherry pickers and similar devices used to raise or lower workers.

6. Vehicles not described in paragraphs 1., 2., 3., or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles

with the following types of permanently attached equipment are not "mobile equipment"

but will be considered "autos":

a. Equipment designed primarily for:

(1) Snow removal;

(2) Road maintenance, but not construction or resurfacing; or

(3) Street cleaning;

b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.

1. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

J. "Private passenger type" means a private passenger or station wagon type "auto" and includes an "auto" of the pickup or van type if not used for business purposes.

K. "Property damage" means damage to or loss of use of tangible property.

"Suit" means a civil proceeding in which:

1. Damages because of "bodily injury" or "property damage"; or
2. A "covered pollution cost or expense", to which this insurance applies, are alleged.

"Suit" includes:

- a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" submits with our consent.

M. "Trailer" includes semitrailer or a dollie used to convert a semitrailer into a trailer. But for Trailer Interchange Coverage only, "trailer" also includes a container.

N. "Trucker" means any person or organization engaged in the business of transporting property by "auto" for hire.

-17, 18:11

WOOLEVER BROTHERS

TRANSPORTATION

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P.01

LEASE NUMBER 9801

AGREEMENT OF LEASE OF MOTOR VEHICLE EQUIPMENT

1ST

day of MARCH

This Agreement of Lease is made this 10th day of MARCH 1990, by and between JHM ENTERPRISES 1200 VALLAMONT DR. WILLIAMSPORT, PA. 17701(Name) (Address)
JHM ENTERPRISES 1200 VALLAMONT DR. WILLIAMSPORT, PA. 17701

Lessor hereby leases to Lessee the following motor vehicle equipment which shall be operated by the owner thereof or by an employee or by employees of said owner:

Year	Type	Serial No.	License No. & State
79	CABOVER	CA213HM160222	AA95000 PA.
1/2			AA 95089

a. The term of this lease shall begin at 10:00 A.M. o'clock on 3 / 1 / 90 and terminate at the end of thirty (30) days, or 10:00 A.M. o'clock 4 / 1 / 90, at which time the term of this lease is automatically extended for additional like thirty (30) day periods, unless terminated by either party giving to the other party five (5) days written notice of cancellation.

b. The term of this lease shall begin at _____ M. o'clock on _____ / _____ / _____ for the purpose of transportation intrastate in the region of a point which Lessor is authorized to serve.

c. The term of this lease shall begin at _____ M. o'clock on _____ / _____ / _____ for the purpose of transportation interstate, in equipment regularly used in transporting commodities exempt under section 203 (b) (6) of the Interstate Commerce Act or manufactured perishable goods therefrom or in equipment which has completed movement of commodities exempt under section 203 (b) (6) of said Act, in the general region of the general area in which such is leased, provided that, prior to the execution of this lease, Lessee receives from Lessor, or Lessor's authorized representative, and retains, a signed statement certifying that the equipment so leased meets the above requirements and which specifies the commodity, origin and destination, time and date of pickup, and time and date of delivery, of such last prior shipment.

d. The term of this lease shall begin at _____ M. o'clock on _____ / _____ / _____ for the purpose of transportation intrastate and/or interstate in dump equipment for use in transporting salt and calcium chloride in bulk for ice and snow control purposes, during the period October 1 to April 30, inclusive, of each year.

e. Rental
For use of said motor vehicle equipment during the term of this lease, Lessee shall pay to Lessor the following: (CHECK ONE)

☒ 1. Of Gross transportation charges for use of said equipment and services of driver or drivers.

☐ 2. As per attached schedule for transporting salt and calcium chloride in bulk.

Lessor and Lessee agree that this agreement of lease is executed in triplicate: the original is retained by Lessee; one copy is retained by Lessor; and one copy shall be carried upon the leased equipment specified herein during the entire period of the agreement of lease.

IN WITNESS WHEREOF the parties hereto have executed this agreement on the day and year first written.

JHM ENTERPRISES
By: [Signature] Pres
WOOLEVER BROS TRANS. INC.
By: [Signature]

REPORT OF VEHICLE INSPECTION

hereby certify that on (DATE) 3/1/90, I have carefully inspected the equipment described herein and that true and correct report of the result of such inspection, and that Lessee's identification placard is displayed on each side of the power unit.

Indicate in the proper column the result of the inspection of each item listed.)

Item	Not Defective		Defective		Description of Defect
	Tractor	Trailer	Tractor	Trailer	
Braking System	/	/			
Lighting System	/	/			
Emergency Equipment	/	/			
Line	/	/			
Wheel	/	/			
1 System	/	/			
to	/	/			
be	/	/			
via (state which)	/	/			
exterior	/	/			
reflector	/	/			
line	/	/			
ring	/	/			
to	/	/			
shield wire	/	/			
or items	/	/			
drawing attention	/	/			

hereby certify that on the date stated above, the person who made inspection was competent and qualified to make such inspection and was duly authorized to make such inspection as a representative

WOOLEVER BROS. TRANS. INC.

Name of authorized carrier

EXEMPT CARRIER REPORT

I certify that the equipment leased hereunder meets the qualifications enumerated in section 204(F) (1) or (2) of the Interstate Commerce Act. The last shipment transported by the above described vehicle immediately prior to execution of this lease is as follows:

Exempt Commodity

From

PLAINTIFF'S
EXHIBIT
Sinclair
11-4-97 JP

E: 3/1/90

Time and Date of No.

Signed

Owner or Agent

RETENTION HEREOF IS REQUIRED FOR 1 YEAR FROM LAST DATE SHOWN

LESSEE acknowledges receipt of the above described equipment on

LESSOR acknowledges return of the above described equipment on

MARCH, 1, 1990

MONTGOMERYVILLE, PA.

at

Signed by

Signed by

LESSOR

Post-it® Fax Note 7671		Date 11/17/95	# of pages 2
To Mail	From	Hazel Sinclair	
Co./Dept. Norshland Inc.	City	Woburn Ave	
Phone # 800-328-5972	Phone #	717-368-8011	
Fax # 612-688-4170	Fax #	717-368-8047	

Possession, Control and Responsibility

During the term of this lease, the motor vehicle equipment described herein shall be in the exclusive possession, control and use of Lessee and Lessee hereby assumes complete responsibility for operation thereof. Driver is authorized by Lessee to log meal and rest stops off duty during which time he is relieved of all work and responsibility for performing work. Stops limited to one hour for each 8 hours tour of duty.

Subleasing

During the term of this lease, Lessee is considered the owner thereof for the purpose of subleasing the same to other authorized carriers, who or which will assume the obligations otherwise owed by Lessee to Lessor.

Insurance Coverage By Lessee

During the term of this lease, Lessee shall furnish and pay the costs of all public liability, property damage and cargo insurance upon the motor vehicle equipment leased hereunder only when such is operated in the service of Lessee.

Chargeable Accident

Notwithstanding any other provision hereof, Lessee reserves the right of immediate cancellation of this lease as to any equipment hereunder when the driver thereof is involved in an accident chargeable to him as determined by Lessee's insurance carrier.

Lessors' Responsibilities

Lessor is solely responsible for:

- Payment of wages of the driver or drivers including applicable deductions for social security tax; withholding tax; unemployment compensation tax; wage taxes; health, welfare and pension contributions; and any other payments as required by law.
- Maintenance and repair of said motor vehicle equipment and emergency replacements thereof, and the sum of any advances by Lessee for such expenses shall be reimbursed to Lessee, who may deduct such amounts from the rental sum herein, provided.
- Providing all necessary fuel, lubricants, and tires and tubes.
- Covering all said motor vehicle equipment with bobtail and deadhead insurance, and all public liability and property damage insurance when said motor vehicle equipment is not being operated in the services of Lessee.
- Comprehensive insurance for collision, fire, theft or other occurrences for which Lessee shall not be responsible.
- Licenses of any nature.
- Tax payments on the motor vehicle equipment or use thereof, including the preparation and filing of all reports connected therewith, or Lessee agrees that Lessee may deduct 2% of Gross transportation charges for any fuel, road, or mileage tax that Lessee may be required to pay for Lessee equipment while equipment is under lease to Lessee.
- Fines and penalties arising out of the use of said equipment.
- Lessor shall indemnify and save Lessor harmless of and from all losses, claims or damages arising while Lessor, owner or any driver or operator is operating said motor vehicle equipment when not exclusively carrying freight of Lessee or while Lessee is using the equipment for purposes of Lessee or other than purposes of Lessee.
- Lessor shall indemnify and save Lessor harmless of and from any loss, claim or damage arising or resulting from any careless or negligent act of omission or commission by Lessor or employees of Lessor.
- Lessor is responsible for any quantity weight or count of shipment signed for by the driver or drivers hereunder.

Lessor is Independent Contractor

The parties hereto expressly understand and agree that Lessor's relationship to Lessee shall be at all times that of an independent contractor and not a relationship of employer-employee.

Lessor certifies that the driver of said equipment leased hereby is, or the drivers of said leased equipment are, qualified for driving said equipment under all applicable laws and regulations, and that Lessee has been notified in writing by Lessor of the hours on duty of said drivers on dates as follows:

Mechanical Failure

In the event of a mechanical failure of the equipment herein leased, if the Lessee is deemed sufficient by Lessor, it shall have authority to transfer cargo and effect delivery, if selected by Lessee. In such event, all expenses incurred with respect to such transfer and delivery, if cargo shall be reimbursed by Lessor to Lessee, who may deduct the amount thereof from the rental sum herein provided.

Lessor agrees to be held responsible for any damages up to \$250.00 to Lessee's trailer and to assume any loss or damage to cargo or equipment, but not exceeding the deductible limitations on company insurance policies, but in no event to exceed \$250.00 for loss or damage to cargo or equipment.

DEC-24 17:25 WOOLEVER BROTH TRANSPORTATION

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533

LEASE NUMBER 41-12

AGREEMENT OF LEASE OF MOTOR VEHICLE EQUIPMENT

This Agreement of Lease is made this

16th

day of

November1995, by and betweenJHM Enterprises1200 Vallamont St

(Name)

(Address)

Williamsport PaOwner and/or Lessor, and Woollever Bros Trans Inc

(Address)

Lessor.

Motor Vehicle Equipment 260 Jordan Ave Montoursville Pa 17758
Lessor hereby leases to Lessee the following motor vehicle equipment which shall be operated by the owner thereof or by an employee or by employees of said owner:

Make	Year	Type	Serial No.	License No. & State
Freight Line	1979	C-O	CA213 Hm 160222	AA95089 Pa
Budd	1977	Van	141235E	XC 27304 Pa

The term of this lease shall begin at 4:00 P. M. o'clock on 11/16/95, and terminate at the end of thirty (30) days, or at 11:11 P. M. o'clock 11/17/95, at which time the term of this lease is automatically extended for additional like thirty (30) day periods, unless terminated by either party giving to the other party five (5) days written notice of cancellation;

The term of this lease shall begin at _____ M. o'clock on _____ / / for the purpose of transportation intrastate in the direction of a point which Lessor is authorized to serve:

The term of this lease shall begin at _____ M. o'clock on _____ / / for the purpose of transportation intrastate, in equipment regularly used in transporting commodities exempt under section 203 (b) (6) of the Interstate Commerce Act or manufactured perishable products therefrom or in equipment which has completed movement of commodities exempt under section 203 (b) (6) of said Act, in the general direction of the general area in which such is based, provided that, prior to the execution of this lease, Lessee receives from Lessor, or Lessor's authorized representative, and retains, a signed statement certifying that the equipment so leased meets the above requirements and which specifies the exempt commodity, origin and destination, time and date of pickup, and time and date of delivery, of such last prior shipment.

The term of this lease shall begin at _____ M. o'clock on _____ / / for the purpose of transportation intrastate and/ interstate in dump equipment for use in transporting salt and calcium chloride in bulk for ice and snow control purposes, during the period of October 1 to April 30, inclusive, of each year.

Lessee Rental For use of said motor vehicle equipment during the term of this lease, Lessee shall pay to Lessor the following: (CHECK ONE)

A. 90 % of Gross transportation charges for use of said equipment and services of driver or drivers.

B. As per attached schedule for transporting salt and calcium chloride in bulk.

Lessor and Lessee agree that this agreement of lease is executed in triplicate; the original is retained by Lessee; one copy is retained by Lessor; and one copy shall be carried upon the leased equipment specified herein during the entire period of the agreement of lease.

IN WITNESS WHEREOF the parties hereto have executed this agreement on the day and year first written.

JHM Enterprises Lessor

By: William Bros Trans Inc Lessee

By: Donald Sinclair Lessee

REPORT OF VEHICLE INSPECTION

I hereby certify that on (DATE) 11/16/95 I carefully inspected the equipment described herein and that this is a true and correct report of the result of such inspection, and that Lessee's identification placard was displayed on each side of the power unit.

Donald Sinclair
Signature of person making inspection

(Indicate in the proper column the result of the inspection of each item listed.)

Item	Not Defective		Defective		Description of Defect	
	Tractor	Trailer	Tractor	Trailer	Tractor	Trailer
Body						
Brake						
Cooling System						
Drive Line						
Emergency Equipment						
Engine						
Exhaust						
Fuel System						
Glass						
Horn						
Leaks						
Lights (state which)						
Reflectors						
Speedometer						
Springs						
Steering						
Tires						
Wheels						
Windshield Wiper						
Other items requiring attention						

I hereby certify that on the date stated above, the person who made the inspection was competent and qualified to make such inspection and was duly authorized to make such inspection as a representative of

Woollever Bros Trans Inc

EXEMPT CARRIER REPORT

I certify that the equipment leased hereunder meets the qualifications enumerated in section 204(P) (1) or (2) of the Interstate Commerce Act. The last shipment transported by the above described vehicle immediately prior to execution of this lease is as follows:

Exempt Commodity _____

Hazel L. Litchner
 Signature of author or co-partner of owner of at _____
 or carrier

Time and Date of receipt _____

 Time and Date of delivery _____

 Signed _____
 Owner or Agent

DATE: 11/16/95

RETENTION HEREOF IS REQUIRED FOR 1 YEAR FROM LAST DATE SHOWN

LESSEE acknowledges receipt of the above described equipment on

LESSOR acknowledges return of the above described equipment on

11/16/95

11/17/95

at _____

at Ephrata, Pa.

Signed by Hazel L. Litchner
 LESSEE

Signed by _____
 LESSOR

Post-it® Fax Note

7671

Date	<u>12/4</u>	# of pages	<u>2</u>
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Possession, Control and Responsibility

During the term of this lease, the motor vehicle equipment described herein shall be in the exclusive possession, control and use of Lessee and Lessee hereby assumes complete responsibility for operation thereof. Driver is authorized by Lessor to stop off duty during which time he is relieved of all work and responsibility for performing work. Stops limited to one hour for each 8 hours tour of duty.

Subleasing

During the term of this lease, Lessor is considered the owner thereof for the purpose of subleasing the same to other authorized carriers, who or which will assume the obligations otherwise owed by Lessee to Lessor.

Insurance Coverage By Lessee

During the term of this lease, Lessee shall furnish and pay the costs of all public liability, property damage and cargo insurance upon the motor vehicle equipment leased hereunder only when such is operated in the service of Lessee.

Chargeable Accident

Notwithstanding any other provision hereof, Lessee reserves the right of immediate cancellation of this lease as to any equipment hereunder when the driver thereof is involved in an accident chargeable to him as determined by Lessor's insurance carrier.

Lessor's Responsibilities

Lessor is solely responsible for:

- a. Payment of wages of the driver or drivers including applicable deductions for social security tax; withholding tax; unemployment compensation tax; wage taxes; health, welfare and pension contributions; and any other payments so required by law.
- b. Maintenance and repair of said motor vehicle equipment and emergency replacements thereof, and the sum of any advances by Lessor for such expenses shall be reimbursed to Lessee, who may deduct such amounts from the rental sum herein, provided.
- c. Providing all necessary fuel, lubricants, and tires and tubes.
- d. Covering all said motor vehicle equipment with bustall and deadhead insurance, and all public liability and property damage insurance when said motor vehicle equipment is not being operated in the services of Lessee.
- e. Comprehensive insurance for collision, fire, theft or other occurrences for which Lessee shall not be responsible.
- f. Licenses of any nature.
- g. Tax payments on the motor vehicle equipment or use thereof, including the preparation and filing of all reports connected therewith, or Lessor agrees that Lessee may deduct 2% of Gross transportation charges for any fuel, road, or mileage tax that Lessee may be required to pay for Lessor equipment while equipment is under lease to Lessee.
- h. Fines and penalties arising out of the use of said equipment.
- i. Lessor shall indemnify and save Lessee harmless of and from all losses, claims or damages arising while Lessor, owner or any driver or operator is operating said motor vehicle equipment when not exclusively carrying freight of Lessee or while Lessor is using the equipment for purposes of Lessor or other than purposes of Lessee.
- j. Lessor shall indemnify and save Lessor harmless of and from any loss, claim or damage arising or resulting from any careless or negligent act of omission or commission by Lessor or employees of Lessor.
- k. Lessor is responsible for any quantity weight or count of shipment signed for by the driver or drivers hereunder.

Lessor is Independent Contractor

The parties hereto expressly understand and agree that Lessor's relationship to Lessee shall be at all times that of an independent contractor and not a relationship of employer-employee.

Lessor certifies that the driver of said equipment leased hereby is, or the drivers of said leased equipment are, qualified for driving said equipment under all applicable laws and regulations, and that Lessee has been notified in writing by Lessor of the hours on duty of said driver or drivers for the seven (7) consecutive days previous to first employment of driving under this lease.

Mechanical Failures

In the event of mechanical failure of the equipment herein leased, or other causes deemed sufficient by Lessee, Lessee shall have authority to transfer cargo and effect delivery by vehicles selected by Lessee. In such events all expenses incurred with respect to such transfer and delivery of cargo shall be reimbursed by Lessor to Lessee, who may deduct the amount thereof from the rental sum herein provided.

Lessor agrees to be held responsible for any damages up to \$250.00 to Lessee's trailer and to assume any loss or damage to cargo or equipment, but not exceeding the deductible limitations on company insurance policies, but in no event to exceed \$250.00 for loss or damage to cargo or equipment.

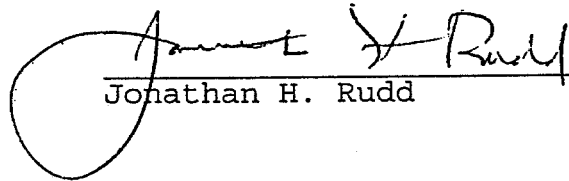
CERTIFICATE OF SERVICE

2nd I, Jonathan H. Rudd, Esquire, hereby certify that on this day of August, 2001, a true and correct copy of the foregoing document was served by first-class, United States mail, postage prepaid, upon the following:

David Ira Rosenbaum, Esq.
Ruthrauff & Armbrust, P.C.
1601 Market Street, 16th Floor
Philadelphia, PA 19103

J.H.M. Enterprises, Inc.
1200 Walmont Drive, N.W.
Williamsport, PA 17701

Vernice Lee Statts
489 East Academy Street
Hughesville, PA 17737-1805


Jonathan H. Rudd

Exh C

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

.....
NORTHLAND INSURANCE
COMPANIES,
Plaintiff
vs. No. 01-CV-763
LINCOLN GENERAL
INSURANCE COMPANY,
J.H.M. ENTERPRISES,
INC., et al.,
Defendants
.....

Deposition of: TRACI E. SLANE
Taken by : Defendant
Date : January 9, 2002;
1:05 p.m.
Place : Klett Rooney Lieber &
Schorling
240 North Third Street
Harrisburg, Pennsylvania
Before : Therese M. Valente
Reporter - Notary Public

APPEARANCES:

SCHINDEL, FARMAN & LIPSIUS, LLP
By: IRA S. LIPSIUS, ESQ.

For - Plaintiff

McNEES WALLACE & NURICK, LLC
By: JONATHAN H. RUDD, ESQ.

For - Defendants

I N D E X
WITNESS

Examination

TRACI E. SLANE

By Mr. Rudd

3

By Mr. Lipsius

-

EXHIBITS

Slane Deposition
Exhibit Numbers

Page

1 Letter to D. Rosenbaum, Esq. from
J. Rudd, Esq., dated 8-3-01.

99

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that sealing, certification and filing are hereby waived; and all objections except as to the form of the question are reserved to the time of trial.

TRACI E. SLANE, called as a witness, being duly sworn, testified as follows:

EXAMINATION

BY MR. RUDD:

Q. Ms. Slane, my name is Jonathan Rudd. I represent Lincoln General in this matter.

I want to try to go pretty quick, but I want to go through a little bit of your background.

A. Sure.

Q. Can you tell me your current employment and work backwards from there?

A. I'm currently working with Northland Insurance Company as a senior claims supervisor.

Q. How long have you been in that position?

A. About one year now. Since February of 2001.

Q. What was your position before that?

A. It was senior claims adjuster.

Q. How long were you in that position?

A. A couple of years. I have been with Northland

Exam./Rudd - Slane

4

1 since '91, and have worked my way up from a
2 claims trainee with no experience through to the
3 senior adjuster, and now senior claims
4 supervisor.

5 Q. Before Northland, did you have any employment?

6 A. No. That was my first job out of college.

7 Q. Where did you graduate college?

8 A. Winona State University, Winona, Minnesota.

9 Q. Did you go to some training school when you
10 started with Northland, or before you started?

11 A. I started with Northland in August of '91, and it
12 was a six month trainee program, before I started
13 actually handling claims.

14 Q. In terms of the training program, did it focus on
15 any specific type of claims or was it just a
16 general course?

17 A. It was a general insurance background.
18 Basically, a general claims background, and then
19 we had six week rotations through each of the
20 claims department; that being, commercial auto,
21 person lines and specialty lines.

22 Q. Where did you eventually end up when you went
23 through your different jobs at Northland? Which
24 claims department?

25 A. Commercial auto.

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1 Q. And you have been there the whole time, other
2 than your training?

3 A. Correct.

4 Q. In commercial auto tell me just generally what
5 type of claims you would have been handling when
6 you were, I guess, a senior claims adjuster?

7 A. We insure long-haul trucks, charter buses and
8 limousines, and it would have been the most
9 series of injuries, fatalities and complex
10 coverage issues.

11 Q. I'm not sure what your status was during the
12 pendency -- your involvement with what we're
13 referring to as the Woolever claim or the J.H.M.
14 claim. Were you a senior claims adjuster the
15 whole time?

16 A. Um-hum.

17 MS. VALENTE: That's a yes?

18 A. Yes. I'm sorry.

19 BY MR. RUDD:

20 Q. Just ballpark, if you can, as a senior claims
21 adjuster, how many claims would you have handled
22 over your tenure, during that time period? Are
23 we talking hundreds, thousands?

24 A. Well, I would get -- I carried a pending of about
25 300 claims, 300 hundred claim files.

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1 I'm sorry, that's wrong. 300 claim units,
2 which would translate to about 150 to 175 files.

3 Q. Okay.

4 A. And that was an ongoing -- on an ongoing basis.
5 I would get anywhere from probably 30 to 50 new
6 claims a month.

7 Q. Now, did you have people you were supervising
8 during this whole time period?

9 A. As a senior claims adjuster?

10 Q. Yes.

11 A. No.

12 Q. As a senior claims supervisor, obviously there
13 must be some supervisory role. Do you still do
14 any hands-on claims adjusting?

15 A. I do some.

16 Q. What percentage of your time is just spent with
17 claims adjusting?

18 A. Depends on how many people quit. As people quit
19 and there are transfer files, I'd say possibly
20 ten percent of my time.

21 Q. In your job description, though, you are not
22 supposed to be spending time doing claims
23 adjusting; you are supposed to be supervising?

24 A. Most, yes.

25 Q. On this file, your counsel has pointed out that

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1 you are the person with settlement authority. Is
2 there a claims adjuster or a senior claims
3 adjuster who's actually handling this file at
4 this point?

5 A. No.

6 Q. So, are there some files that you have continued
7 with and you continue to handle the adjustment of
8 them?

9 A. Yes.

10 Q. Is that part of the ten percent?

11 A. Yes.

12 Q. Do you have an supervisor at this point?

13 A. Our claims manager.

14 Q. Who is that?

15 A. Mike Dempsey.

16 Q. When you were a senior claims adjuster, did you
17 have a supervisor?

18 A. Yes.

19 Q. Who was that?

20 A. Jerry Parker.

21 Q. Is Jerry Parker still with the company?

22 A. Yes, he is.

23 Q. What is his position now?

24 A. He is also a senior claims supervisor.

25 Q. He's your same level at this point?

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1 A. Yes.

2 Q. At some point in time you took over this file
3 from Jerry Parker?

4 A. I did.

5 Q. Was Jerry Parker a senior claims adjuster and got
6 promoted then to a senior claims supervisor?

7 A. Yes.

8 Q. At that time you inherited the file?

9 A. Correct.

10 Q. Had you had any involvement with the file before
11 then?

12 A. No, I-- No.

13 Q. Tell me what you do when you first inherit a
14 file?

15 A. Review it.

16 Q. What exactly do you review? Is there a hard-- I
17 mean, we obviously have a computerized printout.

18 A. Right.

19 Q. And your counsel has sent me also a hard copy of
20 documents also that I assume came from
21 Northland's file. I'm not sure where they
22 originated.

23 MR. LIPSIUS: We will represent that they
24 came Northland's file, what they furnished to us.

25 BY MR. RUDD:

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1 Q. Would you review both the hard copy and the
2 computer diary?

3 A. Absolutely.

4 Q. Would you have any type of meetings with Jerry
5 Parker to discuss any pending issues, any of his
6 thoughts and so forth?

7 A. Yes.

8 Q. And you recall doing that?

9 A. Yes.

10 MR. RUDD: Ira, do you have a copy for her?

11 MR. LIPSIUS: We have the marked copy. Why
12 don't you give her the marked copy.

13 MR. RUDD: That's fine.

14 BY MR. RUDD:

15 Q. November 1st, 1999, which is on Page 5 of the
16 claims diary appears to be where you reviewed the
17 file.

18 A. Yes.

19 Q. Do you recall any-- There's no entries here. Do
20 you have any independent recollection of any
21 involvement before that time?

22 A. No, I don't. I may have heard about the file,
23 but no.

24 Q. There seems to be a gap of quite a number of
25 months between April 20th, 1999 when Jerry Parker

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1 last entered and when you entered on November
2 1st, and I didn't know if there was something
3 that happened in the interim which is not
4 documented.

5 A. Not that I know of.

6 Q. Now, in terms of your handling of this claim,
7 obviously there's coverage issues involving
8 Northland and Lincoln General and there's also
9 the underlying tort claims. Were you handling
10 both of those issues?

11 A. Yes.

12 Q. Is there any type -- obviously not for this case,
13 but is there any type of separation at Northland
14 between coverage adjusters and adjusters who
15 handled the underlying cases?

16 A. There can be.

17 Q. In what instances do you have separate adjusters
18 involved?

19 A. I guess when you would get into a conflict
20 situation, maybe the insurance company's position
21 on coverages is not in the best interest of the
22 insured, you would have one adjuster represent
23 the insured and one handle the coverage.

24 Q. Now, we know that there were-- Let me back up.
25 I am sort of jumping ahead, I guess, trying to

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1 expedite it.

2 We know that there were reservation of rights
3 letters, and your counsel has produced those to
4 me. If you have a reservation of rights
5 situation, does that automatically require
6 separate adjusters?

7 A. No.

8 Q. At what point do you perceive that there would be
9 a potential conflict with you and your insured?

10 MR. LIPSIUS: Are you talking in general or
11 with this file?

12 MR. RUDD: In general, where you would have
13 separate adjusters.

14 A. If you are taking a position of no coverage, yet
15 there's still a duty to defend.

16 BY MR. RUDD:

17 Q. At least it was your understanding when you took
18 over this file, that Northland wasn't taking a
19 position of no coverage with Woolever?

20 A. That was my understanding.

21 MR. LIPSIUS: Just ask a question here of
22 you: Are we getting into-- I thought we were
23 avoiding those coverage issues at this
24 deposition.

25 MR. RUDD: Oh, yes. I am just trying to get

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1 some background of what she did, her role from a
2 coverage standpoint versus a claim standpoint.

3 BY MR. RUDD:

4 Q. After you got involved, and I haven't looked
5 through this in great detail, but I know you made
6 a couple of references to talking to Jerry
7 Parker, but I think most of these entries are
8 your entries.

9 Would a supervisor generally put entries into
10 the same claims diary about contacts he might
11 have had with the claims adjusters?

12 A. You mean if I-- I guess I'm not--

13 Q. If you talked to Jerry Parker, you put your entry
14 down what you think you talked about; would he
15 normally put his entry down what he thought you
16 talked about?

17 A. No.

18 Q. Generally, this is a claims adjuster log, and if
19 we want to get any supervisor's input, we would
20 have to look elsewhere?

21 A. Well, I don't know that there is, because if I am
22 going to conference with him and we decide on a
23 plan of action, it's up to me to document the
24 file as to our plan of action.

25 Q. Because I didn't see any notes, handwritten notes

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1 of communications that Jerry Parker had with you.
2 Would you know whether he would normally keep
3 notes of such conversations?

4 A. No, I don't.

5 MR. LIPSIUS: We will represent that there is
6 no other computer entry log for Jerry Parker on
7 this file. And we will further represent that,
8 at least in the file we have been provided -- we
9 believe our client has provided us with a full
10 file -- there are no Jerry Parker notes, other
11 than the ones that were provided to you. There
12 were a few Jerry Parker notes that were provided
13 to you in the documentation.

14 So, I will represent this should be the
15 complete file.

16 BY MR. RUDD:

17 Q. In terms of the primary issue, why we're here
18 today, about the alleged settlement, did Jerry
19 Parker have any involvement in that?

20 A. Regarding the settlement?

21 Q. Regarding what Northland contends was a
22 settlement with Lincoln General?

23 A. No.

24 Q. I will start in your claims diary at Page 9 on
25 the entry dated December 28, 1999.

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1 A. Okay.

2 Q. For purposes of having a record that sounds
3 somewhat accurate, we've been just trying to
4 conversationally speak what we believe are your
5 abbreviations. If we are wrong, let us know.

6 A. Sure.

7 Q. But in this entry on December 28, 1999, at 8:40
8 a.m., it appears that you returned Lou Bricklin's
9 call.

10 A. Correct.

11 Q. And had some conversations with him?

12 A. Yes.

13 Q. He apparently had been speaking with Mike Pipa,
14 who we know was the counsel Lincoln General hired
15 to defend J.H.M. and Bernice Statts. That was
16 your understanding?

17 A. That was my understanding

18 Q. Apparently, you write, they will agree, and I
19 assume you are talking about Lincoln General will
20 agree?

21 A. Correct.

22 Q. To tender their 750,000 dollars if we agree, and
23 I assume you're talking about Northland?

24 A. Correct.

25 Q. Agree in writing to arbitrate-- Is that what

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1 a-r-b stands for, arbitrate?

2 A. Correct.

3 Q. If all claims settle under 1.5 million and within
4 60 days of underlying claims being resolved.

5 And then it says, Agreed that was fine and he
6 will get out letter out.

7 A. Correct.

8 Q. When you said, Agreed that was fine, there is no
9 indication that at that point in time you
10 communicated with anybody else before making that
11 decision?

12 A. No. I think that had always been our plan of
13 action is if we could agree that that's what we
14 would do.

15 Q. So, you probably, at least at that point in time,
16 it was acceptable to Northland for Lincoln
17 General just to tender their policy limits of
18 750,000; Northland and Lincoln General would then
19 arbitrate the coverage issue?

20 A. Correct.

21 Q. Did you expect then Mr. Bricklin then to send a
22 letter out confirming your agreement to that?

23 A. Correct.

24 Q. If you go to the next page of the claims diary,
25 Page 10. If you look at the entry on January

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1 13th, 2000.

2 A. Okay.

3 Q. And I'm not sure if this is a continuation of
4 some prior entry, but it just states, She had
5 faxed letter. Is that a continuation of
6 apparently your call with Moira?

7 A. No. I don't think so.

8 Q. Tell me, when you say she had faxed letter, who
9 are you referring to?

10 A. That would be a letter that I had received from
11 Moira.

12 Q. And that's Moira Duggan?

13 A. Correct.

14 Q. She worked with Lou Bricklin?

15 A. Correct.

16 Q. Anyway, she had faxed apparently to you? Is that
17 what she's saying?

18 A. Um-hum.

19 Q. Is that a yes?

20 A. Yes. Sorry.

21 MR. RUDD: Ira, do you know whether you
22 provided that letter to us, because I didn't see
23 it?

24 MR. LIPSIUS: I will look in our files, if we
25 did not. I believe we had produced everything,

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1 but it's possible she's mistaken as to whether
2 she got the letter. I have no idea.

3 MR. RUDD: That's what I'm wondering about.

4 MR. LIPSIUS: If it is in the Northland file,
5 and I could not bring the full file with me, if
6 you want, we can put a note in the transcript and
7 I will check our record and if it's not been
8 provided, we will get you a copy, no problem.

9 MR. RUDD: So, you will check on it.

10 A. I'm assuming it came from Moira.

11 BY MR. RUDD:

12 Q. Okay.

13 A. There's a lot of paper in that file.

14 Q. In any event, it says, She had faxed letter
15 whether Northland is willing to agree to
16 arbitrate whether its policy may be primary as
17 opposed to concurrent or excess. Indicates they
18 cannot commit to change until have authority from
19 us.

20 Do you have explanation for why she would be
21 sending you a letter seeing if they have
22 authority from us, when it seemed like back on
23 December 28th, you had already agreed that that
24 was acceptable to Northland?

25 A. The only thing I can say is, based on the

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1 conversation below that note with Moira, there
2 was an issue as to whether we were going to
3 arbitrate if we were primary; and it was my
4 understanding we were going to just arbitrate
5 whether we were concurrent or excess, not whether
6 we were primary, and that's where the problem was
7 coming in.

8 Q. So, on December 28th you had agreed to arbitrate?

9 A. Correct.

10 Q. But at that point was any distinction even made
11 between primary, concurrent or excess issues?

12 A. I don't recall.

13 Q. But in any event, it appears that Moira had sent
14 you a letter requesting your authorization
15 because she didn't feel she could commit to that
16 without you first approving it; is that correct?

17 A. Correct.

18 Q. Apparently, you had a conversation after
19 receiving the letter where you called Moira.
20 Told her I did not have a problem arbitrating if
21 we were primary as opposed to concurrent or
22 excess. Seemed like that is what we had agreed
23 to. She will get ball rolling on that.

24 I understand from that comment that you were
25 agreeable to arbitrating the totality of the

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1 issues as to whether Northland or Lincoln General
2 were primary, concurrent or excess?

3 A. I don't really recall at that point. I know what
4 that says.

5 Q. We will get to Jerry Parker's involvement next,
6 but I want to find out--

7 A. I may have agreed to that before I discussed it
8 with Jerry, but I don't recall. I'm really--
9 Because I know what we finally, what the final
10 resolution of it was and what we wanted to do.

11 I may have off the cuff told her it was not a
12 problem if we arbitrated all the coverage issues
13 and then spoke with Jerry Parker.

14 Q. The statement, She will get the ball rolling on
15 that, did you feel that that would then give her
16 authorization to move forward with what had been
17 proposed?

18 A. That would be my understanding.

19 Q. Now, was it your understanding, though, that
20 before this would happen, there would be some
21 type of written confirmation by Lincoln General
22 and Northland agreeing to the terms of this
23 arbitration?

24 A. I'm sorry. Say that again.

25 Q. Did you believe that there would be some written

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1 agreement outlining the terms of this arbitration
2 between Northland and Lincoln General?

3 A. There usually is in any arbitration that I agree
4 to.

5 Q. You had been involved in this type of situation
6 before where two insurance carriers have agreed
7 to arbitrate coverage disputes?

8 A. Some. Not many.

9 Q. But in those instances, it's been your experience
10 that there was some written agreement setting
11 forth the parameters?

12 A. Um-hum.

13 Q. Is that a yes?

14 A. Yes.

15 Q. Did you feel that until there was a written
16 agreement as to arbitrating this dispute with
17 Lincoln General, that either Northland or Lincoln
18 General could change their minds and decide not
19 to go forward with it?

20 A. Well--

21 MR. LIPSIUS: I think you're asking a legal
22 conclusion. You can answer the question of what
23 you believe.

24 A. Well, not necessarily. I think until we have the
25 parameters set out and both sides have agreed to

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1 it, I don't think it necessarily has to be in
2 writing, but until both sides have agreed to the
3 parameters of the arbitration. I have had many
4 arbitrations fall through because you can't agree
5 on the parameters of them.

6 BY MR. RUDD:

7 Q. It seems at least one of the parameters that was
8 a major parameter was whether Northland was
9 agreeing to arbitrate whether it was potentially
10 primary or concurrent, as well as excess. And it
11 appears to me that you had agreed to that
12 parameter based on your conversation with Moira
13 on January 13, 2000; is that correct?

14 A. We may have. Between her and I, but she hadn't
15 communicated that to anybody.

16 Q. But you told her to get the ball rolling on that
17 right away; correct?

18 A. I did.

19 Q. But until there was actually a written agreement,
20 you didn't feel that either Northland or Lincoln
21 General would be bound to go ahead and arbitrate?

22 A. Well, I mean, with any arbitration you have to
23 have the parameters of the arbitration worked out
24 before it's-- And until that time, either party
25 can back out. And we at that point did not have

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1 the parameters worked out with Lincoln General.

2 Q. And then, going on later, it doesn't say on
3 January 13th, 2000 at what time you discussed
4 this with Jerry Parker, but presumably this is
5 chronological?

6 A. Correct.

7 Q. So, sometime after you talked with Moira?

8 A. I talked to her at 10:15. I am assuming between
9 10:15 and when I called her back at 10:40, I
10 spoke with Jerry.

11 Q. Is there a reason you would have talked to Jerry
12 Parker about this issue?

13 A. Just because he was my supervisor.

14 Q. Well, going back to the file from when you took
15 it over, November of 1999 -- I guess we're only
16 talking a couple months -- but it didn't appear
17 that you had a whole lot of discussions, if any,
18 with Jerry Parker. I'm not sure you had any;
19 there could be some. Is there a reason this is
20 the type of thing you would want to talk to Jerry
21 Parker about?

22 A. Well, because the arbitration is going to bind
23 Northland, and I'm always wary of arbitrating
24 coverage issues, especially big coverage issues,
25 because a lot of times you will get a bad result

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1 with an arbitration, as opposed to a dec. action.
2 And it's just something that I wanted a second --
3 I just wanted to pick his brain and get maybe
4 validation that we were doing the right thing.

5 Q. First of all, let's go through your answer. You
6 had some limited prior experience with
7 arbitrations. It's your testimony that those
8 prior experiences had resulted in what you felt
9 were bad decisions?

10 A. Not just for myself, but for cases throughout the
11 department.

12 Q. Is there a reason that you had not talked to
13 Jerry Parker before you told Moira to get the
14 ball rolling on that?

15 A. No, because I thought I knew-- No, there really
16 isn't.

17 Q. Okay. You felt comfortable arbitrating the
18 primary, concurrent and excess issues when you
19 first talked to Moira, but then you wanted to see
20 what Jerry Parker felt?

21 A. Correct.

22 Q. And you don't recall specifically why you would
23 have had concern enough to even talk to Jerry
24 Parker about it?

25 A. He's my supervisor.

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- 1 Q. How often do you talk to Jerry Parker about your
2 cases? At the time, I should say.
- 3 A. Whenever events were happening on them that I
4 felt he needed to be keep abreast of.
- 5 Q. Did you have authority to commit certain amount
6 of funds to a settlement when you were a senior
7 claims adjuster?
- 8 A. Did I have a dollar amount of authority?
- 9 Q. A dollar amount.
- 10 A. A hundred thousand.
- 11 Q. Above that, you would have to go to Jerry Parker
12 or to someone else?
- 13 A. To Jerry.
- 14 Q. What was Jerry's level of authority, do you know?
- 15 A. 150.
- 16 Q. And then he would have to go to Mike Dempsey?
- 17 A. Yep.
- 18 Q. What was his level of authority?
- 19 A. Back in '99, it was policy limits.
- 20 Q. It's changed since then, you're saying?
- 21 A. Yes.
- 22 MR. LIPSIUS: I am going to ask for a one
23 minute break.
- 24 MR. RUDD: Sure.
- 25 (Recess taken)

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1 BY MR. RUDD:

2 Q. Anyway, at that point in time you talked to Jerry
3 and Jerry's conversation, I guess it's apparent
4 what he said. He did not want to arbitrate
5 whether Northland was primary and Lincoln General
6 was excess, because of the difference in your
7 policy limits.

8 A. Right.

9 Q. That's what you had said about a bad result?

10 A. Right.

11 Q. Apparently then, you called Moira and then passed
12 it on to her?

13 A. Yes.

14 Q. And really, after that point in time, is it fair
15 to say there was limited, if any, discussion
16 about arbitration and that issue went to the
17 wayside?

18 A. It pretty much fell apart.

19 Q. And eventually, Northland proceeded with deciding
20 just to file a declaratory judgment action; is
21 that correct?

22 A. Correct.

23 Q. I'm going to go onto Page 15. The very bottom
24 entry, May 5th, 2000. Apparently, Mike Pipa had
25 called you and you returned Mike Pipa's call.

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1 A. Correct.

2 Q. Was there a reason that you were talking directly
3 with Mike Pipa about this case?

4 A. Well, Northland traditionally retains -- their
5 adjuster retains settlement authority, even
6 though the file is being litigated, and it's not
7 uncommon for adjusters to contact other attorneys
8 directly, even though the case is being
9 litigated.

10 Q. So, your handling of this matter was such that
11 you didn't rely on Lou Bricklin and Moira Duggan
12 to necessarily contact the other attorneys; you
13 did it yourself?

14 A. Exactly.

15 Q. Apparently, he must have told you something such
16 that you called Mike McGovern?

17 A. Yes. At the last -- the top entry said, he
18 referred me -- he said he would call Lincoln
19 General and have the adjuster contact me
20 directly.

21 Q. So, he basically told you, you are going to have
22 to deal with Lincoln General directly on these
23 issues to get answers?

24 A. Correct.

25 Q. Then, apparently, on May 5th, 2000, you did talk

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1 to Mike McGovern?

2 A. Correct.

3 Q. In that conversation, apparently Mike McGovern
4 told you that they, being Lincoln General, would
5 consider agreeing to settling the cases and
6 litigating declaratory judgment action. He gave
7 you his address and asked you to send him a
8 letter. Said to get letter outlining what we are
9 thinking and then he will review and get back to
10 me.

11 Is that common that you would normally send
12 letters out to the other counsel or the other
13 party you are dealing with setting forth what you
14 were proposing?

15 A. Such as splitting the case and litigating?

16 Q. Right.

17 A. Yes.

18 Q. I mean, did you find Mike McGovern's request that
19 you send him a letter to be unreasonable in any
20 manner?

21 A. No.

22 Q. What did you do then about -- I know you sent a
23 letter, but between his request on May 5th, 2000
24 to send a letter and when you actually sent it on
25 May 10th, what did you do to come up and put

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1 together Northland's proposal to Lincoln General?

2 A. It was just very simple because it was just a
3 proposal that we split the cases 50/50 on
4 settlement and then litigate the coverage later.

5 Q. Had you already told that to Mike McGovern in
6 your conversation, what your proposal was?

7 A. Yes.

8 Q. He just wanted to see it in writing?

9 A. Evidently.

10 Q. Did he indicate to you in any manner that he'd
11 have to review it with any of his superiors?

12 A. No.

13 Q. We have already marked as McGovern #3 what I
14 believe is your letter to Mike McGovern. If you
15 could just confirm that.

16 A. Yes. That is my letter.

17 Q. And as you said, it's pretty simple. You say
18 that you were following up on your telephone
19 conversation on May 5, 2000. And then your
20 proposal was, however, we would like to resolve
21 the underlying claims at the same time. We
22 propose that each pay half of the settlements of
23 the underlying claims and proceed to dispose of
24 the coverage issues with the declaratory judgment
25 action that is being filed. Please review and

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1 call me to discuss at your earliest convenience.

2 Was there any more terms to your proposal
3 than that?

4 A. No.

5 Q. When you say half of the settlement of the
6 underlying claims, were you suggesting that
7 Lincoln General pay more than its policy limits
8 of 750,000?

9 A. No.

10 Q. So, implicit although not stated, is that Lincoln
11 General would pay half up to its policy limits?

12 A. Correct.

13 Q. Is there a reason you wouldn't have set that
14 forth clearly as one of the terms?

15 A. Probably because I didn't think the settlements
16 were going to exceed their 750 -- 750 from each
17 of us.

18 Q. At the time did you know that the Plaintiffs, and
19 I saw references in your log to them demanding 4
20 million dollars at one time, something like that.

21 A. Um-hum.

22 MR. LIPSIUS: That's a yes?

23 A. Yes. Sorry.

24 BY MR. RUDD:

25 Q. At the time you had no assurance that this case

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1 would settle for less than 1.5 million, did you?

2 A. No.

3 Q. But your proposal was in essence that Lincoln
4 General contribute up to 750,000. Was there any
5 proposal about how much Northland would pay to
6 settle the case?

7 A. No. At that point we just agreed 50 percent of
8 the underlying cases.

9 Q. Was it an implicit term that the most the two
10 insurance companies would pay to settle the cases
11 was 1.5 million?

12 A. No. It was just my understanding that Lincoln
13 General would not -- I mean, I didn't state that
14 they wouldn't pay more than 750, but as a claims
15 professional, why would they pay more than their
16 policy limits?

17 Q. All right. So, that was implicit, but you hadn't
18 committed to Lincoln General how much Northland
19 would pay of its policy limits and whether it
20 would pay more than 750,000?

21 A. No.

22 Q. That was not discussed with Mike McGovern?

23 A. No.

24 Q. Apparently, Mike McGovern did get back to you on
25 May 18th, 2000. It says, They are willing to do

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1 50/50 split.

2 A. Yes.

3 Q. Not sure 1.5 million is going to do it, but good
4 start.

5 Did you understand from that statement that
6 at least Mike McGovern felt that maybe Northland
7 was going to have to pay more than 750 to get it
8 settled?

9 A. Yes.

10 Q. Did Mike McGovern tell you in the, I guess, ten
11 days between when you sent the letter and he got
12 back to you on the 18th, whether he had reviewed
13 this with anybody else at Lincoln General?

14 A. No.

15 Q. Did you understand that Mike McGovern did have
16 some supervisor there?

17 A. I did not.

18 Q. What did Mike McGovern tell you about his status
19 at Lincoln General?

20 A. Frankly, we never discussed it.

21 Q. Did you know he was an attorney?

22 A. No.

23 Q. He never communicated to you what his position
24 was?

25 A. No.

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1 Q. Did Mike McGovern ever even send you a letter at
2 any time during your involvement with this case?

3 A. Not that I recall.

4 Q. You never saw his signature and how he signed his
5 name and what he identified himself at his title?

6 A. I couldn't tell you.

7 Q. Well, did you believe he was the head of the
8 claims department or anything like that?

9 A. I just-- Mike Pipa referred to him as an
10 adjuster. You'll have to talk with the adjuster
11 at Lincoln General. I assumed he was an
12 adjuster, just like myself.

13 Q. And you assumed then as an adjuster just like
14 yourself who reported to Jerry Parker, that there
15 might be someone Mike McGovern was reporting to?

16 A. It never really crossed my mind.

17 Q. And I'm not sure what adjusters say between
18 themselves, but you had certain settlement
19 authority. You said a hundred thousand dollars?

20 A. Yes.

21 Q. Did you ever communicate to Mike McGovern what
22 the limit of your settlement authority was?

23 A. No.

24 Q. And I assume the decision here, the proposal that
25 you made, which would involve paying up to

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1 750,000 or more, you needed to get authority for
2 doing that from somebody above you?

3 A. Most likely, yes.

4 Q. And Jerry Parker's authority at 150,000 wouldn't
5 even cover it; you would have had to go to Mike
6 Dempsey and get him to agree that you'd pay up to
7 750,000?

8 A. Yes.

9 Q. But in terms of what Mike McGovern had to do, he
10 never told you and you never asked what he had to
11 do to get authority?

12 A. No.

13 Q. I want to move ahead to June 6, 2000. On Page 20
14 is where I want to focus, but the background
15 appears that--

16 MR. LIPSIUS: There are multiple entries for
17 June 6th.

18 MR. RUDD: Right. There is one that starts
19 at the very top of the page.

20 BY MR. RUDD:

21 Q. Is that a continuation or a new one?

22 A. It's a new one.

23 Q. I'm assuming that these little symbols, these
24 number signs on the left-hand side indicate where
25 a new entry starts?

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1 A. Correct.

2 Q. And it looks to me that you can almost put as
3 much information in an entry as you want; it's
4 not like you're limited to a certain number of
5 words?

6 A. No.

7 Q. It says, Counsel called, Lou. PM, I assume, is
8 phone mail?

9 A. Yes.

10 Q. It says, Talked to Pipa's secretary.

11 Now, is this all something that was conveyed
12 to you by Lou Bricklin, or is talked to Pipa's
13 secretary something you're putting in?

14 A. No, because if you go back to the entry before,
15 the last line of that entry is, He will check
16 with Pipa and get back to me. We were talking
17 about the pretrial, and he left a message on my
18 voice mail that he had talked to Pipa's secretary
19 and that there will be another adjuster.

20 Q. You said, Counsel called, Lou. So, Lou left a
21 message on your phone mail?

22 A. On my phone mail, correct.

23 Q. It wasn't that Lou left a message on someone
24 else's phone mail, I got you.

25 A. No.

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1 Q. So, apparently, Lou talked to Pipa's secretary.
2 Said there's another adjuster who has authority
3 and will be handling either the adjustment?

4 A. Adjuster, yeah.

5 Q. Will be handling either the adjuster or Pipa will
6 be calling me.

7 MR. LIPSIUS: Adjustment, I think she said.

8 BY MR. RUDD:

9 Q. Adjustment? That's what I'm trying to figure
10 out. What does ADJ mean there?

11 A. Adjuster.

12 MR. LIPSIUS: Adjuster?

13 A. Yes.

14 MR. LIPSIUS: I'm sorry.

15 BY MR. RUDD:

16 Q. At that point in time you at least knew there was
17 someone else besides Mike McGovern who had some
18 authority from Lincoln General's standpoint?

19 A. I just knew he was out of the office.

20 Q. And then apparently this Sandy Ykema had called.
21 You returned her call, so maybe she must have
22 called you?

23 A. She would have left me a message, right. I
24 returned her call.

25 Q. And she said that they're willing to put up their

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1 policy limits tomorrow then resolve the coverage
2 issues. She will be around all day, if need to
3 discuss. And you told her what Mulligan would
4 settle for?

5 A. Right.

6 Q. First of all, did Sandy Ykema identify who she
7 was?

8 A. No. She told me she was calling in Mike
9 McGovern's absence.

10 Q. She didn't tell you if she was supervisor or she
11 worked for him? Nothing like that?

12 A. No.

13 Q. All she told us is that they would put up their
14 policy limits tomorrow. What does that mean?

15 A. Well, there was a pretrial in front of the Judge,
16 and we thought we had a chance to settle the
17 cases at that time. We thought the Judge would
18 be ruling from the bench and pushing it as a
19 mediation. And so, they were willing to tender
20 their policy limits at the pretrial the following
21 day.

22 Q. In terms of this agreement, though, that you had
23 with Lincoln General that you would split it
24 50/50, if Lincoln General says we're going to put
25 in our policy limits, that would almost force

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1 and I had authority up to 750 on the death claims
2 and up to 375 on the Mulligan claim.

3 Q. All right. That's the total amount for
4 settlement; not just Northland's half; correct?

5 A. I think we were looking at that as full values of
6 the claims, yes.

7 Q. So then, if you take 750 and 375 -- Ira is
8 probably a math whiz.

9 MR. LIPSIUS: One million 125.

10 BY MR. RUDD:

11 Q. One million 75; and then half of that under your
12 agreement--

13 MR. LIPSIUS: 1 million 125.

14 MR. RUDD: Did I say that wrong?

15 MR. LIPSIUS: I thought I said it right. It
16 doesn't matter.

17 BY MR. RUDD:

18 Q. Okay. One million 125, and then half of that
19 would then be 560,750; is that what it is?

20 A. Something like that.

21 MR. LIPSIUS: 562,5000.

22 BY MR. RUDD:

23 Q. 562,5000, that was your authority at the time?

24 A. Correct.

25 Q. And to change that you would have to go back to

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1 someone else, Mike Dempsey, I assume, and get an
2 increase in authority?

3 A. Correct.

4 Q. So, when Sandy Ykema said that they might be
5 offering 750,000, you didn't have authority even
6 to match that at the time?

7 A. No.

8 Q. And you didn't feel that Northland would be
9 committed to paying 750,000 simply because that's
10 what Lincoln General decided to offer?

11 A. Like I said, we were going in on a combined
12 offer. The offers were all made through Lou, and
13 it was a combined offer. So, I was confident
14 that-- You know, if the offer got above my
15 authority, I would have to talk to my authority,
16 and they weren't going to just walk in and offer
17 their 750 and expect us to do the same.

18 Q. You didn't say anything to Sandy Ykema to
19 indicate you had authority just to increase your
20 offer up to 750,000?

21 A. No.

22 Q. You would have communicated your authority to Lou
23 Bricklin, so he knew what the level of your
24 authority was?

25 A. Right.

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1 Q. And you didn't expect him to offer globally ore
2 than what your authority would allow to be paid?

3 A. Correct. And I was available by phone for that.

4 Q. Apparently, certain offers were made, because on
5 July 5th, 2000 -- that's Page 22 -- there is a
6 reference in the entry, which is 10:45. It says,
7 Return counsel call, Lou. There's a reference at
8 the bottom that apparently the Mulligan's had
9 been offered 125,000 dollars at least.

10 A. It appears that way.

11 Q. Because then the entry says, Mulligan attorney
12 has asked us to send the release for 125,000.
13 Not sure if it is settled. So they have asked
14 him in cover letter if case is actually settled
15 or not.

16 Well, first of all, I want to break that
17 down. It says, Not sure if it is settled. At
18 that point had the attorney responded to somebody
19 and said, We are willing to accept 125,000?

20 A. The 125,000 was the figure from the Judge after
21 the pretrial.

22 MR. LIPSIUS: I don't think you answered the
23 question. Why don't you repeat the question?

24 A. I haven't-- Just give me a second. I'm starting
25 with that. That was the recommendation from the

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1 Judge that it should settle for 125,000.

2 BY MR. RUDD:

3 Q. Let me back up a little bit. Let's go to Page
4 21. June 26th, 2000, where you say, Counsel has
5 made 125,000 offer on Mulligan. Plaintiff
6 attorney has said he will talk to his client, but
7 seems to have no control over her.

8 After that entry, I don't see anything about
9 the Mulligan matter until the entry on July 5th,
10 2000, that we just read, but maybe you can
11 discern something.

12 A. What we had done is, on that June 5th entry, we
13 had offered the 125,000.

14 Q. June 26th, is that what you meant?

15 A. Yes. On June 26th we had offered the 125,000.
16 Her attorney had asked us to send over the
17 release. At that point we were not sure if the
18 case was actually settled.

19 Q. Let me back up here. On June 26, 2000, you made
20 this offer?

21 A. Correct.

22 Q. When did the attorney ask you to send over the
23 release? You put that down on July 5th, 2000?

24 A. That is what Lou had told me on July 5th, that
25 the Mulligan attorney had asked us to send over

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1 the release. I don't know when that request came
2 in because that was being handled between Lou and
3 Mulligan's attorney.

4 Q. Do you know if the attorney, the Mulligan's
5 attorney, indicated that his client was willing
6 to accept it or indicated anything about his
7 client's reaction to this offer?

8 A. We were not clear at that point if it was
9 settled. He had asked for the release, and it
10 was my understanding he wanted the release to try
11 and push the settlement to his client.

12 So, we were not sure if the case was actually
13 settled. So, I had asked Lou in the cover letter
14 of sending over the release to ask him if the
15 case was actually settled or not, because he was
16 asking for the release.

17 Q. So, whatever orally Mulligan's attorney said to
18 Lou Bricklin didn't give you a great deal of
19 assurance that this case was actually settled?

20 A. No.

21 Q. You wanted to see a signed release and then you
22 knew it was settled?

23 A. He had asked for the release, and it was my
24 understanding it was to try and persuade his
25 client to settle the case.

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1 MR. LIPSIUS: He means the attorney for the
2 Mulligans?

3 A. Correct.

4 BY MR. RUDD:

5 Q. Let me just jump down a little bit. July 14th
6 you have a call, a conversation with Mike
7 McGovern, and you told him -- told him we had
8 release out on Mulligan claim. Not sure if it
9 appeared that one was going to settle.

10 Who actually prepared the release and sent it
11 out to the Mulligan attorney?

12 A. Lou Bricklin.

13 Q. Did you have to review the release before it was
14 sent out?

15 A. No.

16 Q. Have you worked with Lou Bricklin in the past
17 before this matter?

18 A. Many times.

19 Q. Did you have a standard release that Lou had used
20 previously in Northland claim?

21 A. Yes.

22 Q. So, Mr. Bricklin would have known what was
23 acceptable to the Northland and just sent that
24 release out?

25 A. Correct.

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1 Q. Is that typical that he does not send to you for
2 your review before it goes out a copy of the
3 release?

4 A. Correct.

5 Q. Had you worked with Mr. Bricklin before?

6 A. Yes, I had.

7 Q. Had he ever sent you a proposed release before it
8 was sent out?

9 A. No.

10 Q. Has any attorney ever sent you a proposed release
11 before it's gone out?

12 A. Very, very rarely have I seen releases from our
13 attorneys before they're sent out.

14 Q. So, there's no way for you to make sure that the
15 amount set forth in the release is accurate,
16 because you haven't even seen it before it goes
17 out?

18 A. I trust that he knows what the case has settled
19 for.

20 Q. You're hoping that there is no miscommunication
21 between all the parties when he sent that release
22 out?

23 A. I rely on him.

24 Q. Do you normally like to see at least a letter
25 from somebody confirming the amount before you

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1 have the release sent out?

2 A. Well, we'd have a letter from the Judge
3 confirming the amount and that's what our offer
4 was based on, and that's what I had authority to
5 settle it for.

6 Q. Then you told Mike McGovern it appeared that it
7 was going to settle, but since you hadn't gotten
8 the release back, you couldn't confirm that it
9 was settled; is that correct?

10 A. Correct.

11 Q. Then on July 19th, apparently, you talked to
12 Moira. She said Mulligan case settled. Has
13 release.

14 So, once you got the release, you knew the
15 case had settled?

16 A. Correct.

17 Q. Move over to Page 24, the entry on August 10th,
18 2000.

19 A. Okay.

20 Q. Apparently, you talked to Mike McGovern on that
21 date.

22 A. Um-hum.

23 Q. He says he felt that the last offer -- and it
24 says lost offer, but I assume that means last
25 offer?

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1 A. Yes.

2 Q. Last offer was take or leave it, and since they
3 left it, we should proceed. And I think last
4 offer, was that 1,250,000?

5 I'm just looking up the entry on August 8th,
6 2000.

7 MR. LIPSIUS: Just to move it along, I think
8 that was the Plaintiff's bottom line, a million
9 250. I think the offer of the parties was a
10 little less than that.

11 MR. RUDD: All right.

12 MR. LIPSIUS: Somewhere here I saw it.

13 A. I believe it was just -- I want to say it was a
14 million plus half of the delay damages.

15 BY MR. RUDD:

16 Q. I'm looking at August 2nd. Apparently, it says,
17 Received formal offer 1,287,500 to settle the
18 claim. Then you talked apparently to Mike
19 McGovern. It says he would consider splitting
20 the delay damages with them in trying to get the
21 case resolved.

22 Apparently, you discussed something with
23 Jerry Parker to split the difference.

24 A. Mike said he was fine with splitting the
25 difference, too, and I think at that point, I

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1 believe we were at a million then, because we had
2 offered what the Judge--

3 Q. Okay.

4 A. We had offered the million that the Judge had
5 recommended.

6 Q. Whatever you offered, apparently they refused it.
7 Mike McGovern calls you August 10th, 2000, and
8 says he feels we should just proceed.

9 And then, apparently, you said, We,
10 Northland, felt we need to settle the case, and I
11 had authority to settle it.

12 What do you mean by that?

13 A. That I felt that this was a case we needed--
14 They had given us a bottom line, and it was a
15 case that needed to settle, and we did not want
16 to proceed to trial with this case.

17 Q. You said, I had authority to settle it. What did
18 you mean by that?

19 A. It means I had the authority to go ahead and get
20 this resolved.

21 Q. I mean, did you have authority at that point to
22 go up to the policy limits?

23 A. No. I didn't need it, because the demand was
24 well within.

25 Q. Okay. So, you had authority to pay half of the

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1 1,287,500?

2 A. No. I had authority to pay half of the 1.25
3 million.

4 MR. LIPSIUS: Of the entry of August 8th.
5 The Plaintiff's bottom line was 1.25.

6 A. Their bottom line was 1.25, and at that point--

7 BY MR. RUDD:

8 Q. And they wouldn't split the difference with us,
9 it says?

10 A. Right.

11 Q. So, you had half of that authority?

12 A. I had half of that authority, right.

13 Q. So, you already paid out what? I think you said
14 125, so you paid out half?

15 A. Correct.

16 Q. 62,500? You had paid that out already?

17 A. Correct.

18 Q. On Mulligan, and you had authority to pay out
19 625,000 more on Cliffords; is that right?

20 A. That sounds right.

21 Q. And you told that to Mike.

22 What did he tell you-- It says, He will talk
23 to his people and let me know if they are willing
24 to go half.

25 Did he tell you in that conversation on

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1 August 10th what the level of his authority was?

2 A. No.

3 Q. And what perplexes me here is that apparently you
4 had a conversation with Sandy Ykema before where
5 she said they were willing to tender 750,000.

6 So, did you ask Mike what he was talking about in
7 terms of talking to other people, because his
8 firm had already seemingly committed 750,000?

9 A. I didn't. He said he would talk to his people,
10 and I said fine.

11 Q. You didn't argue with him that he had already
12 committed this money; he couldn't back out now?

13 A. No.

14 Q. Did you feel that somehow he was trying to back
15 out of this earlier commitment of 750,000?

16 A. It didn't really cross my mind, no.

17 Q. Did you believe you had authority under the
18 agreement, which is memorialized at least by your
19 May 10, 2000 letter, that you could simply commit
20 Lincoln General's funds up to 750,000, whether
21 they liked it or not?

22 A. No.

23 Q. So, you felt you did need to have a response from
24 Mike McGovern saying, I agree, that we'll now put
25 in 625,000?

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1 A. Right, because he had-- I guess we had been
2 negotiating back and forth based on the offers
3 that were being made, the demands that were being
4 made and the offers that were being made, so it
5 didn't seem unreasonable to me that he needed to
6 talk to someone.

7 Q. All right. When he says, he will talk to his
8 people, did he tell you who he was referring to?

9 A. No.

10 Q. Did he say his people, or did he give you -- say,
11 my supervisor?

12 A. He just said, I need to talk to my people.

13 Q. Who did you think his people were?

14 A. I didn't really know. I didn't ask.

15 Q. Being an adjuster yourself, you must have some
16 understanding that most insurance companies
17 probably work similarly, that adjusters have a
18 certain level of authority? Is that your common
19 understanding?

20 A. You know, I've only worked for Northland, and so,
21 I don't really have a strong understanding of how
22 other companies are structured.

23 Q. In all your dealings with other adjusters you
24 have never had conversations about how their
25 level of authority is created and who they have

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1 to go to?

2 A. No.

3 Q. So, you didn't know when he said his people,
4 whether it was a group of people or whether it
5 was his boss, or who it was?

6 A. No idea.

7 Q. Then you said, You told Mike McGovern they could
8 give us the rest of their limits, and then we
9 would make up the difference to settle the
10 Clifford's case, and then we would dismiss
11 declaratory judgment, and it would be done.

12 What did you mean about they would give the
13 rest of their limits? The rest of their limits,
14 I guess, would have been what, 600 and--

15 MR. LIPSIUS: 687,500.

16 BY MR. RUDD:

17 Q. 687,500, and you would make up the difference.
18 If they gave you 687,500 and you knew you could
19 settle the case for 1,250,000 -- I don't have my
20 calculator here, but Ira's like a human
21 calculator -- I'm sure he'll tell us that the
22 amount you would pay is less than 687,500?

23 A. Right.

24 Q. Why were you proposing that if you had already
25 agreed to split it 50/50?

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1 A. Because if we did it that way, then the dec.
2 action would be dismissed, the case would be
3 closed and settled, and we could move on to other
4 things.

5 Q. So, you were proposing to change the terms of the
6 agreement at this point in order to resolve the
7 declaratory judgment action?

8 A. I figured if they wanted to pay their policy
9 limits and walk away, I would be just as willing
10 to do that and we would all be done.

11 Q. Well, you knew if they paid their policy limits,
12 the dec. action would be moot because you
13 couldn't force them to pay any more?

14 A. (Nodding head)

15 MR. LIPSIUS: Was that a yes?

16 A. Yes, that was a yes. I'm sorry.

17 BY MR. RUDD:

18 Q. Who did you talk to before making that proposal
19 that you wanted them to pay the policy limits?

20 A. I didn't speak with anyone.

21 Q. Then apparently, he said, They, Lincoln General,
22 want their money back from us. I assume
23 Northland?

24 A. Yes.

25 Q. And not willing to do that. I assume he's not

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1 willing to pay his policy limits and just drop
2 the dec. action?

3 A. Correct.

4 Q. He really thinks they will prevail on the
5 declaratory judgment and we will owe them back
6 everything. Mike McGovern is telling you that?

7 A. That was his belief.

8 Q. You told him, I do not agree, but if not
9 interested, let's settle Clifford and litigate
10 the coverage. He will get back to me.

11 When you left that conversation, what was
12 your understanding of what was the proposal on
13 the table?

14 A. That he was going to talk to his people and see
15 if they were willing to go half on the
16 Plaintiff's bottom line and litigate the coverage
17 later.

18 Q. So, you understood when you talked to him that he
19 wasn't even going to propose your offer, that
20 they pay the limits, and then you would drop the
21 dec. action?

22 A. He rejected that out-of-hand. I didn't think
23 he's-- He rejected it out-of-hand, so..

24 Q. You weren't expecting him to go back to his
25 supervisor, propose it, and then come back to you

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1 later on and say that's not acceptable?

2 A. No. We had beaten that dead horse before, so.

3 Q. All right. Was there a reason, was there some
4 turn of events that made you think that Mike
5 McGovern now would be more willing to accept this
6 proposal than he had in the past?

7 A. It never hurts to ask.

8 Q. But there wasn't something that happened that you
9 felt gave you a better position?

10 A. No.

11 Q. At that point in time?

12 A. No, not at all.

13 Q. Did Mike ever respond to you that we already have
14 an agreement; we are just going to split it 50/50
15 and he wasn't going to pay more than that?

16 A. No.

17 Q. Then he comes back, apparently, it looks like the
18 same day, later on in the day. He called you?

19 A. Um-hum.

20 Q. Said they will go one-half up to the 1.25
21 million. They want to proceed with declaratory
22 judgment. Are not interested in tendering the
23 rest of their limits.

24 A. Yes.

25 Q. Even though you said it was a dead horse,

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1 apparently, he must have discussed it with
2 somebody because he's coming back and saying, we
3 are not involved in tendering the rest of their
4 limits?

5 A. Our limits.

6 MR. LIPSIUS: I am going to object. I think
7 you mischaracterized that. The dead horse was
8 the tender the rest of the limits, and the second
9 part of the offer is go up to the 1.25 and
10 continue with the DJ action; and the response is,
11 they will go ahead with the second of the two
12 offers.

13 I don't want to put testimony in her words,
14 but I think that's what is there.

15 MR. RUDD: What I'm inquiring into here is,
16 she had said he dismissed it out-of-hand in her
17 first conversation, the concept of Lincoln
18 General paying the balance of its policy limits.

19 BY MR. RUDD:

20 Q. Apparently, he at least talked to you about it
21 again, so it didn't seem to be a dead issue for
22 him, because he said they were not interested in
23 tendering the rest of their limits.

24 A. He may have. I mean, he may have discussed that.
25 I don't know.

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1 Q. That's what I was asking you. Did he tell you, I
2 have talked to our people, and number one -- I
3 know it's not in the order of the way you put it,
4 but number one, they're not interested in
5 tendering the rest of their limits? Did he tell
6 you that?

7 A. That wasn't the first thing he told me.

8 Q. I understand that, but at some point he told you
9 that?

10 A. Correct. I wouldn't have typed it in unless he
11 told me again.

12 Q. And you understood it wasn't just him saying it,
13 because he had already told you this himself, but
14 now it was coming from somebody else?

15 A. Correct.

16 Q. And he also told you that they would go up to
17 half of the 1.25 million, which if they would do
18 that, presumably should settle the case, because
19 that's what the Plaintiff's offer was?

20 A. Correct.

21 Q. Now, in terms of wanting to proceed with the
22 declaratory judgment action, I'm not sure how
23 familiar you were with the status of that case,
24 but at that point in time were you aware that
25 Lincoln General hadn't even filed a claim against

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1 Northland?

2 A. I'm not following you.

3 Q. Did you understand that the declaratory judgment
4 action was filed by Northland against Lincoln
5 General in the Federal District Court in the
6 Eastern District of Pennsylvania?

7 A. Correct.

8 Q. Lincoln General had filed a motion involving a
9 venue issue, had not filed any type of
10 counterclaim against Northland at that point in
11 time?

12 A. Correct.

13 Q. Did you understand that?

14 A. Yes.

15 Q. So, even though he said they want to proceed with
16 the declaratory judgment, did you understand that
17 they hadn't even filed a claim yet in the
18 declaratory judgment?

19 A. I guess what I knew at that point is we had filed
20 it and there was a venue issue, and that was as
21 far as it had gone.

22 Q. Did it concern you that Lincoln General had not
23 yet even asserted a claim against Northland?

24 A. I don't know that I was even aware that they
25 hadn't at that point.

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1 Q. Let me move on then. We will get to this in the
2 next entries. Let's move on to Page 27.

3 In the interim, obviously, the Plaintiffs did
4 accept the offer and I think actually you saved
5 25,000 dollars, because they accepted, wasn't it
6 1,225,000 or something like that?

7 A. Yeah. 1.25.

8 Q. I don't know if it says it in your notes or not.

9 A. Yeah. 1.225.

10 Q. So, it was 25,000 less than what had been
11 previously demanded?

12 A. Correct.

13 Q. Then, apparently, on November 20th, 2000, you
14 have a call with Moira?

15 A. Um-hum.

16 Q. And you say, Said Lincoln General will be sending
17 their checks direct to the Plaintiff. Told her I
18 need to know when that is received, so we can
19 dismiss the declaratory judgment. She will let
20 me know.

21 First of all, why would you dismiss the
22 declaratory judgment at that point in time if
23 Lincoln General had only contributed 50 percent
24 of the settlement?

25 A. Because at that point we decided we wanted to

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1 dismiss it.

2 Q. Well, Mike McGovern had told you before he wanted
3 to pursue it?

4 A. Yes, he did.

5 Q. Did you believe that you could just go ahead and
6 dismiss it if Mike McGovern and Lincoln General
7 wanted to pursue it?

8 A. Well, they could file one-- Presuming had we
9 dismissed it, they could have filed it if they
10 had wanted to pursue it.

11 Q. At that point in time you were willing to dismiss
12 your claim against Lincoln General before you had
13 any type of assurance or release from them that
14 they would not pursue you in some type of other
15 forum?

16 A. Correct.

17 Q. Had you talked to anybody, Jerry Parker or Mike
18 Dempsey, about this before you told Moira to go
19 ahead?

20 A. That would have been a decision made by myself,
21 and Jerry and Mike.

22 Q. Do you know where that would show up in your
23 claims diary?

24 A. I don't know if that would show up in my claims
25 diary.

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1 Q. That's what I was wondering.

2 A. I don't see it in there, and it may not be there.

3 Q. But you're saying, this would not be a decision
4 you would have made on your own?

5 A. No.

6 Q. Then you sort of confirm that again on November
7 20th, 2000. You apparently talked to Moira again
8 that day.

9 A. Yes.

10 Q. I'm looking for, when was it that everything
11 finally, including the Clifford case -- I'm not
12 sure of you have an entry where the Court then
13 approved the settlement?

14 A. December 8th. The precipe to discontinue was
15 sent to the Court.

16 Q. So, apparently, it's around that time?

17 A. January 16th I paid their final billing.

18 Q. So, sometime in the December 8th - January 2001,
19 the Clifford's action was totally complete, and
20 Lincoln General apparently did pay the Plaintiffs
21 their half.

22 A. Yes.

23 Q. You had said before to Moira that you were going
24 to go ahead and dismiss the declaratory judgment
25 action. What did you do to carry out what you

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1 had previously said?

2 MR. LIPSIUS: That gets into the
3 attorney-client privilege.

4 Can we go off the record a second?

5 MR. RUDD: All right.

6 (Discussion held off the record)

7 MR. RUDD: Back on the record.

8 BY MR. RUDD:

9 Q. After Lincoln General paid its settlement checks,
10 is it fair to say that you still intended to
11 carry forward with what Mike Dempsey, Jerry
12 Parker and you had decided previously, which was
13 you were going to -- Northland was going to
14 discontinue the declaratory judgment action?

15 A. Correct.

16 Q. And then you left it up to your attorneys how to
17 go about doing that?

18 A. Correct.

19 Q. And you had no further involvement at that point
20 in how the declaratory judgment would be
21 dismissed; is that correct?

22 A. Correct.

23 Q. And at some point in time did you assume that had
24 been done?

25 A. No.

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1 Q. I don't see any reference up to this point in
2 time where you had even proposed getting some
3 type of release from Lincoln General that they
4 wouldn't file their own declaratory judgment or
5 indemnity action against Northland; is that
6 correct?

7 A. Correct.

8 Q. Now, the first entry I have about your dealings
9 with Mike McGovern on the alleged settlement are
10 April 2nd, 2001; is that correct?

11 A. Correct.

12 Q. Mr. McGovern in his claims diary-- Let me ask
13 you. Have you even Mr. McGovern's claims diary?

14 A. Yes, I have.

15 MR. LIPSIUS: I will just note that that's
16 Exhibit #1 to the McGovern deposition.

17 MR. RUDD: Right.

18 BY MR. RUDD:

19 Q. Mr. McGovern had two entries before April 2nd.
20 Both of those entries he says that he called you
21 and left a message. You don't indicate, and you
22 can look at this, but you don't indicate having
23 received any calls from Mike McGovern before
24 April 2nd, 2001.

25 Do you know if you had received just a

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1 message from Mike McGovern that said please call,
2 would you necessarily document that in your
3 claims diary?

4 A. Not necessarily.

5 Q. So, that could be an explanation why you have no
6 record of Mike McGovern having called on, I think
7 it was February 15th and March 26th, is it?

8 MR. LIPSIUS: February 15th and March 12th.

9 MR. RUDD: March 12th.

10 A. No. Normally, I would document those, but I
11 don't-- There are times that those calls don't
12 get documented.

13 BY MR. RUDD:

14 Q. And I assume you must get a lot of voice mail
15 messages?

16 A. I did, yes.

17 Q. You did or you still do?

18 A. I don't as a supervisor.

19 Q. But you did? If you had 150, 175 active claims,
20 I presume you could be getting 20, 30, 40 calls a
21 day?

22 A. Very possible.

23 Q. And how do you physically actually-- Are you
24 just sitting at your computer with a headset on
25 and you're typing as people are talking?

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1 A. Correct.

2 Q. When you go through your voice mail messages, do
3 you just sequentially try to pull up a claim file
4 and you type stuff down in term of the voice mail
5 message, or you write it down on a pad and then
6 enter it later?

7 A. I would normally go through my messages, write
8 them all down on a pad of paper, and then, as I
9 return them, I would pull the claim file up and
10 enter notes into the file.

11 Q. So, if you had received a call from Mike
12 McGovern, you might have just wrote down,
13 Received call from Mike McGovern; call him back?
14 If you didn't call him back that day, you might
15 never have entered it into the system?

16 A. I may not have.

17 Q. But, clearly, if Mike McGovern had proposed in
18 one of these voice mail messages of February 15
19 or March 12th something as significant as
20 settling the case, I would think you would have
21 documented that; correct?

22 A. Yes.

23 Q. So, is it fair to say based on your own
24 procedure, that those two calls of February 15th
25 or March 12th did not contain any substantive

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1 discussion of his settlement proposal?

2 A. That would be fair to say.

3 Q. So, the first substantive discussion appears that
4 you had was on April 2nd, 2001, where what you
5 wrote down is, He called, asked if there was any
6 interest in walking away. And you say, Told him
7 we were interested, but needed their consent to
8 dismiss the lawsuit.

9 So, this conversation just came out of the
10 blue, that Mike asked if there was any interest
11 in walking away?

12 A. Correct.

13 Q. You had not had any further contact with him
14 indicating that you had already planned to drop
15 the declaratory judgment action?

16 A. No.

17 Q. So, this was just good news to you?

18 A. Absolutely.

19 Q. He says he will let his counsel know. Did he say
20 who his counsel was?

21 A. No.

22 Q. Did he tell you in what case he was talking
23 about?

24 A. I'm not following.

25 Q. All right. You had dealt with Mr. Pipa before?

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1 A. Correct.

2 Q. Did you believe he was talking about Mr. Pipa or
3 someone else? Or didn't he indicate one way or
4 another?

5 A. He didn't indicate one way or the other.

6 Q. He just said he will let his counsel know that
7 will probably happen and call me to confirm once
8 he talks to their accounting people.

9 Well, first of all, you write probably down?

10 A. Um-hum.

11 Q. Was there anything-- First of all, tell me what
12 Mr. McGovern told you about the reason he was
13 calling you now to suggest walking away, when
14 before he had refused to do that?

15 A. You know, insurance companies change their mind
16 all the time. I don't know. He called to ask if
17 we were interested in walking away, and that's
18 what we wanted to do. So, I guess I didn't
19 really go into his reasoning behind why. It
20 didn't make any difference to me. I just wanted
21 to drop the DJ..

22 Q. So, you never questioned him what caused him to
23 change his position?

24 A. No.

25 Q. Did you ever question him whether his supervisor

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1 or anybody else had even approved this yet, that
2 he call you?

3 A. No.

4 Q. But he did tell you he would have to talk to his
5 accounting people? Is that what that means?

6 A. Yeah. That would be what that means. That's in
7 my notes.

8 Q. You think he must have used the term accounting
9 people?

10 A. If that's what I typed, that's what he said.

11 Q. Do I know what type of accounting people work at
12 insurance companies?

13 A. We have got a complete accounting department at
14 our company.

15 Q. Do they control claims decisions?

16 A. No. Not at our company.

17 Q. Did you find it odd that he said he would have to
18 talk to his accounting people?

19 A. Again, it was something that I wanted. And I
20 didn't care who he had to talk to; I just wanted
21 to make it happen at that point.

22 Q. But you knew he had to talk to somebody to get
23 approval?

24 A. That's what-- He said he would call me to
25 confirm once he talked to their accounting

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1 people.

2 Q. He didn't tell you whether he had talked to them
3 in advance of calling you?

4 A. No.

5 Q. And you never questioned him whether this was
6 something originating from him or some other
7 person at Lincoln General?

8 A. No.

9 Q. Then, you don't have any other entries before
10 April 11th, 2001.

11 Did you talk to anybody in the interim,
12 though, from Northland's standpoint about whether
13 Northland was still agreeable--

14 A. No.

15 Q. --to walk away?

16 A. This is what we wanted. This is what we were
17 trying to accomplish.

18 Q. So, you didn't need to go back to someone to find
19 out if Northland's position might have changed?

20 A. No.

21 Q. And if you had talked to Jerry Parker or Mike
22 Dempsey about it, would that necessarily be
23 reflected in your notes?

24 A. It may or may not. As my supervisor, Jerry and I
25 would probably have many off-the-cuff type

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1 conversations about files in passing; hey, this
2 is what's going on; this is what's going on, not
3 necessarily documented.

4 Q. Okay. Then, apparently, on April 11th, 2001, you
5 have 2:15 p.m. Mike McGovern at Lincoln General
6 called. Left message on phone mail.

7 A. Correct.

8 Q. What type of phone mail system do you have? Is
9 there is a name to it?

10 A. That's a good question.

11 Q. Like there's Audix? You hear Audix a lot, people
12 you call up.

13 A. I have no idea.

14 Q. Did your phone mail system tell you what time
15 someone called?

16 A. Yes, it does.

17 Q. It would have said Mike McGovern called-- It
18 would say, You got a message at 2:15 p.m. and
19 then when you played it, it would say, This is
20 Mike McGovern?

21 A. Yeah. Message received at 2:15 p.m. It would
22 be, Hi, this is Mike McGovern at Lincoln General.

23 Q. And would you be writing down stuff then?

24 A. Correct.

25 Q. First of all, I have never seen your notes of any

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1 of these conversations. Do you discard them
2 after you put them in the computer?

3 A. What notes?

4 Q. Of all your voice mail messages.

5 A. I just keep a little pad of paper--

6 Q. Right.

7 A. And jot them down.

8 Q. Once you're done jotting that down, you later
9 enter it into the computer?

10 A. Yes.

11 Q. What do you do with that piece of paper that you
12 jotted it down?

13 A. They get tossed.

14 Q. So, you discarded all of those?

15 A. Correct.

16 Q. So, we can't get the actual note of what you
17 wrote down that Mike McGovern said in his
18 conversation?

19 A. This would be it.

20 Q. Is this verbatim? These are exact words or is
21 this somehow you're paraphrasing?

22 A. That looks to me like it was pretty much verbatim
23 from his message.

24 Q. It says, They are in agreement to walk away from
25 declaratory judgment and close files?

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1 A. Correct.

2 Q. Nothing more that he said?

3 A. No.

4 Q. He didn't tell you there's any other terms, like
5 we want some money or anything like that?

6 A. No.

7 Q. And, again, you didn't talk to him live, but this
8 is what he said in his voice mail message?

9 A. Correct.

10 Q. So, apparently, you called him back and you left
11 a message on his phone mail; is that right?

12 A. Correct.

13 Q. You say, Asking him to have his counsel call Ira
14 and agree to voluntarily dismiss suit.

15 MR. LIPSIUS: This.

16 BY MR. RUDD:

17 Q. Voluntarily dismiss this, I'm sorry. I was
18 adding the suit. This.

19 A. Correct.

20 Q. It doesn't appear that you ever talked to Mike
21 McGovern live about any of this, on April 11th?

22 A. No.

23 Q. How much time does your voice mail message system
24 allow?

25 A. Hmmm, I think it's--

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1 MR. LIPSIUS: Don't guess.

2 A. I'd be totally speculating. I don't know. There
3 is a finite period of time. It will tell you
4 after you have left so much time on the message
5 that you have 15 seconds left, and then it cuts
6 you off.

7 BY MR. RUDD:

8 Q. You don't recall whether this was a long or short
9 message from Mike McGovern?

10 A. Mike McGovern's messages were always short. He
11 was always a very short-- I mean, there wasn't a
12 lot of fluff to his conversations.

13 Q. Okay.

14 A. Voice mail or otherwise.

15 Q. And then, apparently, there's some a redacted
16 entry below that.

17 (Phone interruption)

18 (Discussion held off the record)

19 BY MR. RUDD:

20 Q. There's a redacted entry there, but we apparently
21 know what's not redacted April 24th, 2001, you
22 called Ira and you left message -- LMTC -- left
23 message to call on phone mail.

24 So, you apparently asked Ira to call you
25 back?

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1 A. Right. As I usually do.

2 (Discussion held off the record)

3 BY MR. RUDD:

4 Q. You had apparently left a message for Mike
5 McGovern to call Ira, but then you followed up
6 with Ira yourself on that same subject?

7 A. Correct.

8 Q. So, clearly this was not something where his
9 counsel, being Mike McGovern's counsel, had
10 called up Ira and Ira wouldn't have been just in
11 the dark, and say, I don't know anything about
12 it; what are you talking about it?

13 A. Right.

14 Q. You wanted Ira to know what had happened?

15 A. Correct.

16 Q. Now, is it fair to say that you never followed up
17 any of these conversations with Mike McGovern
18 with a letter?

19 A. Correct.

20 Q. Did you expect that you would be sending or your
21 attorney would be sending a document to Lincoln
22 General or its counsel that would somehow
23 memorialize any type of mutual releases?

24 A. No.

25 Q. Did you believe that Lincoln General was going to

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1 release Northland, or was it just agreeing to the
2 discontinuance of the declaratory judgment
3 action?

4 A. It was my understanding we were going to dismiss
5 the DJ, that neither one of us wanted to pursue
6 it anymore.

7 Q. Did you understand at that point in time Lincoln
8 General had still not filed a claim against
9 Northland in the declaratory judgment action?

10 A. No, I did not know that.

11 Q. So, this note here, they are in agreement to walk
12 away from DJ, the only claim asserted in the DJ
13 was the Northland claim. So, he didn't say
14 anything in his note apparently or anything in
15 his conversation with you about releases?

16 MR. LIPSIUS: I'm just going to object
17 because it's being read out of-- It says walk
18 away from DJ and close files.

19 You can answer the question.

20 MR. RUDD: He just left that at close files.

21 MR. LIPSIUS: Right.

22 BY MR. RUDD:

23 Q. You didn't ask him what files he was talking
24 about?

25 A. Well, it was my understanding from out previous

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1 conversations that they had no interest in
2 pursuing the dec. and neither did we.

3 Q. But did you understand at the time that the only
4 thing pending in the declaratory judgment action
5 was your claim against Lincoln General, that
6 Lincoln General had never asserted a claim
7 against Northland?

8 A. No, I wasn't aware of that.

9 Q. Would that have changed how you handled this
10 whole thing if you knew that?

11 A. No, because I thought we were in mutual agreement
12 to walk away, and that nobody was going to pursue
13 a dec. action.

14 Q. But nowhere in your note does it say anything
15 that Lincoln General agreed it would not file its
16 declaratory judgment action against us?

17 A. It was my understanding they didn't want to
18 pursue anything.

19 Q. Your understanding is apparently based on these
20 exchanged voice mail messages; correct?

21 A. Well, and the April 2nd call.

22 Q. April 2nd call, you knew he had at that point in
23 time to go back to his accounting people and get
24 approval for this?

25 A. Right.

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1 Q. His April 11th call, he doesn't tell you what his
2 accounting people told him, did he, in the
3 message?

4 A. No.

5 Q. You said it was a short message. He doesn't tell
6 you what his accounting people decided about
7 whether Lincoln General would pursue its own
8 declaratory judgment action?

9 A. No.

10 Q. He doesn't mention, at least you don't write down
11 in your message, anything about mutual releases?

12 A. It was my understanding we were both walking away
13 from the DJ and both closing our files. That is
14 why files is plural.

15 Q. Did you understand that if Northland simply
16 dismissed its declaratory judgment action against
17 Lincoln General, that that would have no effect
18 on Lincoln General's ability to file another
19 declaratory judgment action against Northland in
20 some other proceeding?

21 A. It was my understanding we were both walking away
22 from filing a dec.

23 Q. But your note just says, Ask him to have his
24 counsel call Ira and agree to voluntarily dismiss
25 this?

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1 A. That's because we had filed the dec. and we
2 needed their consent to dismiss this.

3 Q. But the question is, at the time did you have an
4 understanding, one way or another, whether
5 Lincoln General had filed it own claim back
6 against Northland?

7 A. I was not aware at that point if they had or not.

8 Q. Why didn't you follow any of this up with a
9 letter similar to when you followed up your prior
10 agreement about splitting the settlement with a
11 letter?

12 MR. LIPSIUS: I'll just object. It's
13 speculation, but you can answer the question.

14 A. Because I assumed Mike would make good on his
15 word and dismiss the DJ and we would be done with
16 it. It never crossed my mind that I should send
17 a follow-up letter memorializing the
18 conversation.

19 BY MR. RUDD:

20 Q. You didn't believe that the nature of the
21 conversations which were by phone message
22 warranted at least some confirmatory letter or at
23 least a live conversation to make it clear what
24 he was agreeing to?

25 A. No.

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1 Q. Had you ever settled a case before with the
2 exchange of phone mail messages without any live
3 conversations or a letter confirming the
4 conversation by one of the other parties?

5 A. I would have to say I have done it hundreds of
6 times.

7 Q. Hundreds of times?

8 A. Between trying to get a hold of attorneys and
9 other adjusters, you play phone mail, you fax --
10 not necessarily faxing back and forth, but you're
11 leaving phone mail messages back and forth,
12 sending releases based on that, and I guess I've
13 just never had a problem before.

14 Q. So, in this context, even though you have an
15 exchange of phone mails, you wouldn't send a fax
16 or an e-mail confirming what you talked about?

17 A. Sometimes I may; this time I didn't.

18 Q. Now, you said sending releases. I thought you
19 said that you rely on your attorneys to send
20 releases?

21 A. I am talking about cases where it's a Plaintiff's
22 attorney and I'm -- a claim not in suit, a claim
23 not in litigation.

24 Q. So, in those cases you would send a release to
25 that Plaintiff's attorney, which would confirm

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1 what you had talked about in your exchange of
2 conversations?

3 A. I need them to sign a release in order to settle
4 the claim, yes.

5 Q. Right. So, you would do that on your own?

6 A. Yes.

7 Q. And that would be your confirmatory document,
8 would be the release?

9 A. Sure.

10 Q. Have you ever had cases where someone came back
11 and said, no, this is not acceptable; we are not
12 agreeing to these terms of the release?

13 A. Sure.

14 Q. And so, you understand that until you actually
15 get the signed release back, the case isn't
16 settled?

17 A. Not necessarily, no.

18 Q. Well, in the Mulligan case you had some
19 uncertainty whether it was settled and you were
20 looking for that release; is that correct?

21 A. Well, that was because the Plaintiff's attorney
22 himself told us that he didn't know if he could
23 settle it for 125 and requested a release to try
24 and persuade his client to settle it.

25 Q. Well, you must have had some assurance that his

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1 client would take it, because you said it will
2 probably -- or, I think you actually said, It
3 appeared it would settle?

4 A. That was-- The 125,000 was a number that the
5 Plaintiff's attorney himself had come up with, so
6 I was confident that since he had come up with
7 that number and the Judge had come up with that
8 same number, that with a release that he would
9 settle it. He was trying to get his client to
10 take it.

11 Q. All right. So, even though you felt that there
12 might be some agreement in principle, until you
13 got that release in hand, you weren't confident
14 the case was settled?

15 MR. LIPSIUS: Object. That's not what she
16 said.

17 A. That case was not settled when we sent the
18 release. There was no agreement; there was no
19 settlement when that release was sent, and that
20 was the way that we got that case to settle.

21 BY MR. RUDD:

22 Q. I thought you said that the Plaintiff's attorney
23 himself had proposed the 125,000?

24 A. He had at one point, but he didn't have authority
25 from his client to do it.

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1 Q. And he told you that?

2 A. He had proposed that number.

3 Q. But he specifically said, I am proposing this
4 number, but I don't have authority?

5 A. Correct.

6 Q. In this context, it appears based on-- Your
7 notes are sort of short, they're not that
8 extensive, but nothing in your notes indicate
9 that Mike McGovern told you he had authority to
10 settle anything?

11 A. He was the person I had dealt with from day one.
12 He was the only person, other than Sandy Ykema
13 that I had dealt with from Lincoln General.

14 Q. Well, on April 2nd, he tells you, in essence, he
15 didn't have authority because he had to check
16 with his accounting people; correct?

17 A. Right.

18 Q. In the April 11th note, he doesn't indicate one
19 way or another whether this was authorized by the
20 accounting people or whoever?

21 A. I have no idea.

22 Q. At some point in time you were aware that no
23 release was sent out; is that correct?

24 A. On the dec. action?

25 Q. That's right.

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1 A. Okay. Yes, because I had been in contact with
2 Ira.

3 Q. Was there a reason that mutual releases were
4 never sent to Lincoln General?

5 A. My last message to Mike was to have his counsel
6 call Ira to confirm that they would voluntarily
7 dismiss this, and I left it up to his counsel and
8 Ira to resolve the remaining issues.

9 Q. So, you were still looking for some confirmation
10 for a number of months?

11 A. Yes.

12 Q. At some point did you have some concern that
13 maybe there was a problem with this because you
14 never got that confirmation?

15 A. No. I just figured that things were moving
16 slowly; it was in litigation; people are busy.

17 Q. How slowly did you think this case was moving at
18 that point in time?

19 MR. LIPSIUS: Object as to form.

20 BY MR. RUDD:

21 Q. Let me ask you, how many months were you willing
22 to wait before you got some type of confirmation
23 that this case was really going to be settled?

24 A. As you can see, I was following up with Ira to
25 see where we were moving and getting this

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1 resolved, so I could get the file closed.

2 Q. Were you getting any correspondence from anybody
3 indicating that Lincoln General had even agreed
4 to these terms?

5 A. No, but I was assuming that it was being worked
6 out, Lincoln General's counsel was working it out
7 with Ira.

8 Q. So, you thought that counsel were going to work
9 out the terms of this settlement; and that once
10 it was all worked out, someone would let you know
11 that it had all been done?

12 A. Correct.

13 Q. And you had no interest in seeing what those
14 terms were?

15 A. I wouldn't say I had no interest, but I was
16 relying on Ira. That's why I hired him.

17 Q. Did you expect to receive copies of any proposed
18 releases or confirmatory memoranda before you saw
19 the executed document?

20 A. Not necessarily.

21 Q. So, you were expecting to receive some executed
22 document at some point in time by Lincoln
23 General, which then you would execute on
24 Northland's behalf?

25 MR. LIPSIUS: If you had any idea what you

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1 were going to receive.

2 A. I had no idea what I would receive. I just
3 assumed at some point in time I would receive a
4 letter from Ira indicating that this matter had
5 been resolved.

6 BY MR. RUDD:

7 Q. Did you expect there were going to be mutual
8 releases signed?

9 A. I didn't really know what to expect.

10 Q. Well, you understood that if there were mutual
11 releases, someone from Northland would have to
12 sign it; correct?

13 A. Like I said, I wasn't sure what to expect.

14 Q. Apparently, on July 11th, 2001, you had a
15 conversation with a man who you identified at the
16 bottom as Al Miller?

17 A. Correct.

18 Q. Did he apparently identify himself as general
19 counsel?

20 A. Yes.

21 Q. Did you ask him who he was or did he just
22 identify himself?

23 A. I believe he identified himself when I got
24 conferenced in on the call.

25 Q. Was that the first time you had talked to Mr.

Exam./Rudd - Slane

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1 Miller?

2 A. Correct.

3 Q. It says 3 P.M., Ira called on conference call
4 with in-house counsel for Lincoln General. It
5 says, Transfer has occurred, but nothing else on
6 litigation.

7 You understood that the case had been
8 transferred from one Court to another?

9 A. That was my understanding, yes.

10 Q. And someone must have told you that, or did you
11 know that independently?

12 A. I don't really recall.

13 Q. Well, let's go back up to June 27, 2001. It
14 says, Waiting on dismissal.

15 A. Correct.

16 Q. It doesn't say where you got that from?

17 A. Well, based on my conversations and traded voice
18 mails on April 11th, I was waiting on the
19 dismissal of the DJ.

20 Q. That's what I want to ask. You talked to
21 somebody, it probably was Ira, that's why you
22 redacted it, on May 24th, 2001.

23 MR. LIPSIUS: I will stipulate that the 4-11
24 and the 5-24 were both conversations with me.

25 MR. RUDD: Well, I assumed they were.

Exam./Rudd - Slane

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1 BY MR. RUDD:

2 Q. So, over a month after you talked to Ira on May
3 24, 2001, you still say, Waiting on dismissal.

4 A. Yes.

5 Q. It doesn't appear that you talked to Ira and he
6 conveyed that, or you probably would have had
7 some redacted entry there.

8 A. Correct.

9 Q. Is this something that comes up on some type of
10 diary control every month and you have to put
11 something in?

12 A. Yes. It would come up on my diary periodically,
13 whatever I set the date, and it probably came up
14 on diary at that point.

15 Q. Does that show-- I have seen some insurance
16 companies where they actually will show the dates
17 that it's diaried for. Do you have a computer
18 printout that shows all your diary control
19 entries?

20 A. No.

21 Q. Is it the same program that you use to enter this
22 information, or is it a separate program?

23 A. It's out of the same program.

24 Q. So, you would have diaried this for sometime
25 probably June 27th, 2001?

Exam./Rudd - Slane

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1 A. Probably.

2 Q. When you got to that point, what would you have
3 done?

4 A. Taken a look at the file, seeing what was going
5 on. At that point I noted we were waiting on the
6 dismissal and probably re-diaried it.

7 Q. So, you would have pulled out the file, looked at
8 it and saw nothing has happened since at least
9 May 24th, 2001, and assumed you were waiting on
10 dismissal?

11 A. Correct.

12 Q. Dismissal from who?

13 A. Dismissal on the dec. action.

14 Q. You were looking for an Order from the Court?

15 A. I was looking for whatever documents were
16 necessary to end the litigation on this file.

17 Q. Then on July 11th, 2001, we were talking about
18 that entry.

19 A. Correct.

20 Q. About the transfer occurred. Did you ever
21 suggest that this case -- that at least the Court
22 be notified about the discontinuance of this
23 action?

24 A. That's what I hire Ira for. I was leaving it up
25 to Ira and Lincoln General's counsel.

Exam./Rudd - Slane

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1 Q. Apparently Al says he knows nothing of McGovern's
2 agreement to dismiss, claiming they have never
3 talked to McGovern about this.

4 First of all how, long did this conversation
5 last?

6 A. Good question. I wouldn't say it lasted very
7 long.

8 Q. What did you tell Mr.-- Let me ask you: How did
9 it happen? Ira calls you. Obviously, I don't
10 think it's privileged because Mr. Miller is on
11 the phone.

12 MR. LIPSIUS: That is why I did not redact
13 that entry.

14 MR. RUDD: I understand.

15 BY MR. RUDD:

16 Q. What did Ira tell you why he was even calling?

17 A. I believe he called me because they were
18 discussing whether or not there was an agreement
19 to dismiss, would be my recollection of that.

20 Q. Did Ira even tell you why he was talking to a Al
21 Miller?

22 A. I believe he mentioned that Al had been talking
23 to somebody else in their office and had asked to
24 be transferred to him. But that is my
25 recollection.

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1 Q. Did he explain why Al Miller was talking to
2 someone else in his office?

3 A. I don't really know.

4 Q. So, he didn't mention that, Al Miller is someone
5 we dealt with on other files; he has some
6 questions?

7 A. I don't really recall and I don't want to
8 speculate.

9 Q. All right. So, Ira said-- Did he tell you why
10 Al was wanting to talk to you?

11 Let me back up. Did he even say that Al
12 wanted to talk to you?

13 A. You know, I don't really remember how the
14 conversation started.

15 Q. Ira didn't explain to you why he was even calling
16 you?

17 A. Well, I'm assuming when he says he's got house
18 counsel for Lincoln General on the phone that he
19 is talking about Woolever Brothers, because that
20 would be my only case involving Lincoln General.

21 Q. Did Mr. Lipsius explain to you that he had some
22 confusion himself about what happened and wanted
23 to get you involved to answer some questions?

24 MR. LIPSIUS: Object. You're characterizing
25 a conversation. There's no such testimony.

Exam./Rudd - Slane

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1 MR. RUDD: I am asking anything to that
2 extent.

3 A. Not that I recall.

4 BY MR. RUDD:

5 Q. At the time he called did you believe there was
6 an any reason that Ira would not have full
7 knowledge of what happened in terms of this
8 alleged settlement such that he could answer Mr.
9 Miller's questions?

10 A. I wouldn't-- Say that again.

11 Q. Let me back it up. Did you believe as of July
12 11th, 2001 that Ira had not been given sufficient
13 information such that he would be able to answer
14 Mr. Miller's questions about this alleged
15 settlement?

16 MR. LIPSIUS: Do you understand the question?

17 A. I'm not sure that I do.

18 BY MR. RUDD:

19 Q. Let me just say for example, if Ira knew all the
20 terms of this settlement and all he had to do was
21 complete the paperwork and get it done, would
22 there be anything that Ira wouldn't have in his
23 possession to be able to answer questions that
24 Mr. Miller might ask about this alleged
25 settlement?

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1 A. That, I can't really-- I don't know.

2 Q. All right. So, you can't explain why Ira would
3 have to conference you in to answer any questions
4 Mr. Miller had?

5 A. All I know is, it's Ira's practice usually to
6 conference us in on cases.

7 Q. How often does he call you with the opposing
8 attorney on the phone to ask a question about
9 settlement?

10 A. I don't know. Well, I mean, I haven't had that
11 many cases where settlement has been an issue,
12 but a lot of times Ira will conference us in to
13 keep us involved in the case.

14 Q. Did Ira indicate in this conversation that there
15 was certain information he didn't know and that
16 he needed you to answer Mr. Miller's questions?

17 A. I don't really recall if that was stated by him.

18 Q. All right. Because, apparently, Al said he knew
19 nothing of the agreement, so I assume you were
20 talking about what had been discussed between you
21 and Mr. McGovern; is that correct?

22 A. Correct.

23 Q. What did you tell Mr. Miller about what had been
24 discussed between you and Mr. McGovern?

25 A. I went back to my April 11th note and read him

Exam./Rudd - Slane

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1 verbatim what my note said, between the voice
2 mails between Mike McGovern and myself.

3 And I believe I probably even went back to
4 the April 2nd note, because at that point it
5 wasn't very fresh in my mind either.

6 I knew it was settled and I knew I was
7 waiting on a dismissal, but I went back into my
8 notes and read him verbatim from the April 2nd
9 and April 11th entries.

10 Q. And then you put down here, He, being Al Miller,
11 will go back and talk to his supervisor and let
12 him know what has transpired and see about
13 getting an agreement to dismissing the
14 declaratory judgment and walking away and closing
15 files.

16 Now, Mr. Miller says he'll see about, or go
17 back to his supervisor to see about. Did you say
18 anything at that point in time that this has
19 already happened, and you guys are bound to walk
20 away from this?

21 A. No. I was going to let him have that
22 conversation. I wasn't going to get into an
23 argument about it, whether or not it was
24 resolved.

25 Q. At that point in time you felt it still was an

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1 open issue and he needed to check with his
2 supervisor whether they wanted to go forward with
3 walking way?

4 A. No, I did not feel it was an open issue, and I
5 felt that if he pressed that it was not settled,
6 that I was going to have Ira moving forward to
7 enforce the settlement that Mike McGovern and
8 myself had reached. There was no doubt in my
9 mind it was settled.

10 Q. You didn't tell that to Al Miller at the time?

11 A. I wasn't going to get into an argument with Al
12 about whether or not it was settled. I had never
13 spoken to the man before. He was going to talk
14 to his people and see what they wanted to do, and
15 if they didn't agree to dismiss, I was going to
16 have Ira move forward with enforcing the
17 settlement.

18 Q. That is something that you did not confirm in
19 your note, though, what your plan of action was?
20 You were going to wait and see what happened?

21 A. Well, I figured there was no reason getting into
22 an argument about whether or not it was settled.
23 Obviously, Mike McGovern was no longer there and
24 they were claiming there was no settlement.

25 Q. So, Al did claim there was no settlement?

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1 A. Well, he said that he knew nothing about it.

2 Q. How hard did you argue your case that you felt
3 that there was a settlement and they better stand
4 behind it or there was going to be further
5 litigation on that issue?

6 A. I didn't argue with him because he was going to
7 talk to his people and get back to us and let us
8 know what their course of action was going to be.
9 And my course of action was going to be, if they
10 reneged on the settlement, to move forward to
11 enforce it through the Court.

12 Q. Okay.

13 A. Because we had a settlement.

14 Q. It appears that after that date you didn't have
15 any more conversations with Al Miller?

16 A. No. That has been the one and only time I have
17 ever spoken with him.

18 Q. Is it fair to say that you didn't have any more
19 information from Lincoln General about what their
20 position was regarding the settlement?

21 A. Nope.

22 Q. You wanted to know whether Lincoln General
23 reneged on the agreement, but you never got an
24 answer to that; is that correct?

25 A. Well, it was my understanding thereafter that

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1 they had filed an answer to the declaratory
2 judgment action and were moving forward.

3 Q. So, you felt that was the answer you were looking
4 for?

5 A. That was my answer that they weren't going to
6 stand up to the settlement.

7 Q. When you found that out, that they filed an
8 answer and counterclaim, and I'm not sure if I
9 know the exact date.

10 MR. RUDD: Do you have that, Ira?

11 MR. LIPSIUS: No.

12 MR. RUDD: Well, I've got a letter of August
13 3, 2001, that I sent David Rosenbaum, who was
14 your local counsel, that I am serving him with
15 our Answer, Affirmative Defenses, Crossclaim and
16 Counterclaim.

17 BY MR. RUDD:

18 Q. That was around August 3. Presumably, you
19 received it somewhere thereafter; is that
20 correct?

21 A. Correct.

22 Q. I don't see any reference to it, but there are
23 some redacted entries which could indicate you
24 received it, but do you recall if you ever
25 received a copy of that document?

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1 A. I believe I did.

2 Q. After you received it, you knew that Lincoln
3 General was not honoring what you felt was the
4 settlement?

5 A. Correct.

6 Q. Did you then do anything about having Ira, or you
7 do it yourself, send a letter saying, You guys
8 have reneged on this agreement; we're going to
9 enforce it? Did you do anything like that?

10 A. I believe I told Ira to move forward with
11 enforcing it through the Court's, because it was
12 obvious to me-- We had had a conversation about
13 it. It was obvious to me they weren't going to
14 stand by what they had said.

15 Q. Did you believe at that point in time it was
16 appropriate to try to document some of what had
17 occurred?

18 A. I thought my file spoke for itself, that it was
19 settled back on April 11th.

20 Q. All right. But you still didn't feel it was
21 necessary to confirm any of these exchanged voice
22 mail messages with Mike McGovern?

23 A. Well, there's not much I can do when he's no
24 longer there.

25 Q. Because from your note on July 11th, it doesn't

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1 even appear that you confirmed to Al what had
2 happened on April 11th. Although you might have
3 done it, it doesn't say here that you had done
4 it.

5 A. Well, he said he would go back to his supervisor
6 and let him know what has transpired; i.e., that
7 I am claiming that we had settled the case with
8 Mike McGovern and agreed to walk away.

9 MR. RUDD: Why don't we mark this Slane
10 Exhibit #1.

11 (Slane Deposition Exhibit #1 marked
12 for identification)

13 BY MR. RUDD:

14 Q. Slane Exhibit #1 is a letter that I had sent to
15 David Rosenbaum on August 3, 2001, transmitting
16 Lincoln General's Answer, Affirmative Defenses,
17 Crossclaim and Counterclaim, as well as the Third
18 Party Complaint.

19 You said you did get the document. Would you
20 have received a copy of this letter?

21 A. Yes, I did.

22 Q. I'm not going to read the whole letter, but is it
23 fair to say that there's nothing in the letter to
24 indicate at all anything about this settlement,
25 this alleged settlement? This letter does not

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1 address the alleged settlement, does it?

2 A. No, it does not.

3 Q. Did you have any concern when you received this
4 letter that maybe Lincoln General's attorney
5 didn't even know about this alleged settlement?

6 A. The thought never crossed my mind. I just
7 assumed this was my answer that they were not
8 going to stand by the settlement and we were
9 going to have to proceed to try and enforce it.

10 Q. So, even though the letter says nothing that we
11 are backing out of the settlement, we want to
12 proceed, you just assumed that Lincoln General's
13 attorney knew about it, and was just imply-edly
14 rejecting that there had been a settlement?

15 A. The act of filing an Answer, Affirmative Defenses
16 and Cross and Counterclaim to me was a rejection
17 of the argument that the case was settled.

18 Q. There was a reason that you didn't respond to
19 this letter of August 3, 2001, or have your
20 attorney do it, either way, and say, We're
21 rejecting your settlement demand because this
22 case has already been settled?

23 A. I believe Ira responded to that letter.

24 Q. That's what I was going to ask you about, because
25 I see in your entry -- this on Page 30 -- where

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1 it says, August 16th. Received e-mail copy of
2 Ira's response to Lincoln General.

3 It was your understanding that Mr. Lipsius
4 was going to respond to this letter?

5 A. Correct.

6 Q. And you saw his response to Lincoln General. Was
7 that before he sent it?

8 A. That might-- He e-mails me everything. It might
9 have been concurrent with it being sent. We
10 discussed it.

11 Q. Because I have never seen that response and
12 that's what I was wondering about, what response
13 we're talking about.

14 It was a letter, though, you believe that was
15 going to be sent to Lincoln General?

16 It says to Lincoln General; it doesn't say to
17 their attorney.

18 A. Well, Lincoln General in my notes would-- I
19 mean, that encompasses.

20 It was my understanding that there was a
21 letter sent.

22 Q. To their attorney or to Lincoln General
23 themselves?

24 A. I don't actually recall, because I don't have the
25 letter in front of me, who it was actually

Exam./Rudd - Slane

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1 addressed to. I would assume it would be in
2 response to your letter.

3 MR. LIPSIUS: Any draft letter of any sort we
4 would take the position is a privileged document
5 between attorney and client.

6 An e-mail refers to a letter, the letter
7 itself. The e-mail draft of what went between
8 Northland and our office is a privileged
9 document.

10 MR. RUDD: I understand, but if it was
11 actually sent out to somebody--

12 MR. LIPSIUS: Then you would have it, that's
13 correct. But the e-mail draft was not what was
14 sent. This was an e-mail copy. If the actual
15 letter was sent--

16 MR. RUDD: That's what I'm trying to-- She
17 thinks it was actually sent, so I'm trying to
18 figure out--

19 BY MR. RUDD:

20 Q. What do you recall that this letter said? Did it
21 respond to our settlement demand?

22 MR. LIPSIUS: Well, to the extent that it was
23 not sent, then--

24 MR. RUDD: She hasn't confirmed that it's not
25 sent.

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1 MR. LIPSIUS: She doesn't know if it was sent
2 or not; so therefore-- I don't even know if she
3 remembers what it said, but to the extent that it
4 may not have been sent, then that would be a
5 privileged document, if it was a draft of any
6 sort.

7 A. I don't recall if it was sent, and right now
8 without the letter in front of me, I don't recall
9 what it said.

10 BY MR. RUDD:

11 Q. Did you believe a letter would be sent in
12 response to the settlement demand rejecting the
13 settlement demand?

14 A. That would be my understanding.

15 Q. And that's normal practice; isn't that correct?

16 A. Absolutely.

17 Q. And you would believe in response to a settlement
18 demand, one of the key responses would be, This
19 case has already been settled and we're going to
20 reject your demand outright?

21 A. Correct.

22 Q. And then after that, I guess over on September
23 19th, 2001, you said, E-mailed Ira asking for
24 update.

25 I think around September 17th or thereabouts

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1 is my recollection was when Northland filed its
2 rely to Lincoln General's Counterclaim. I don't
3 see any reference to you having received that.
4 Do you know if you got that document?

5 A. I'm sure I probably did.

6 Q. In that document there was a defense raised --
7 There were very few defenses, but one of the
8 defenses says there was an accord and
9 satisfaction. Do you know what that means?

10 A. I'm not-- I have heard it before, but...

11 Q. Do you know if there ever were any signed
12 documents between Northland and Lincoln General
13 settling this case?

14 A. As far as signed documents, I don't believe there
15 were.

16 Q. So, as of today, you're not aware of any signed
17 documents. Are you aware of any even being
18 offered by Lincoln General or by Northland to
19 settle the case?

20 A. No.

21 Q. So, at this point you've never seen any type of
22 proposed agreement to settle this case?

23 A. Well, the agreement to settle the case was done
24 orally on April 11th.

25 Q. Right. But you have never seen any written

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1 document from either side that would outline any
2 of those terms or include any other additional
3 terms?

4 A. No.

5 Q. You said that you have been involved in a few
6 instances where there's been disputes over
7 settlement?

8 A. Sure. It happens.

9 Q. What has been the context of those? Have they
10 been coverage disputes?

11 A. Not normally, no.

12 Q. What type of cases were they?

13 A. Injury claims where either the attorney didn't
14 have the authority to settle the case, or once
15 the case was settled, the Plaintiff or the
16 Claimant decides that it's not enough money.
17 That type of thing.

18 Q. What has happened in those contexts where the
19 Claimant has decided it's not enough money?

20 A. Well, there are times we move to enforce the
21 settlement, and there are times that we-- You
22 know, my position is that it's settled; their
23 position is it's not settled; and oftentimes to
24 avoid lengthy litigation, we will compromise on
25 it. But there are times that we move to enforce

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1 those settlements.

2 Q. And these are cases where there was just oral
3 discussions and nothing in writing?

4 A. It's happened where there's been things written.

5 Q. Have you had any, though, where there's been oral
6 discussions, nothing in writing, where you have
7 gone and tried to enforce the settlement?

8 A. Yes.

9 Q. And was that a case where the Claimant decided it
10 wasn't enough money?

11 A. I don't remember all the particulars at this
12 point.

13 Q. What has been the outcome of those cases?

14 A. Like I said, a lot of times to avoid lengthy
15 litigation and a lot of litigation costs, we will
16 compromise and settle the case.

17 Q. So, you don't have any Court decisions ruling on
18 this one way or another that you're aware of?

19 A. Not that I recall off the top of my head, no.

20 Q. The same thing dealing with whether the attorney
21 was authorized to settle the case? You
22 compromise those and they haven't gone through a
23 full decision?

24 A. Not that I recall, no.

25 MR. RUDD: That's all I have.

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MR. LIPSIUS: I have no questions.

(The deposition concluded at 3:00 p.m.)

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COMMONWEALTH OF PENNSYLVANIA)
) ss.
COUNTY OF LANCASTER)

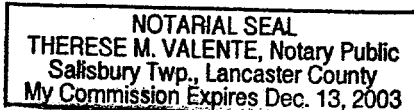
I, Therese M. Valente, Reporter and Notary Public in and for the Commonwealth of Pennsylvania and County of Lancaster, do hereby certify that the foregoing deposition was taken before me at the time and place hereinbefore set forth, and that it is the testimony of:

TRACI E. SLANE

I further certify that said witness was by me duly sworn to testify the whole and complete truth in said cause; that the testimony then given was reported by me stenographically, and subsequently transcribed under my direction and supervision; and that the foregoing is a full, true and correct transcript of my original shorthand notes.

I further certify that I am not counsel for or related to any of the parties to the foregoing cause, or employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

Dated at Gap, Pennsylvania this 18th day of
January, 2002.



Therese M. Valente
Therese M. Valente
Reporter - Notary Public

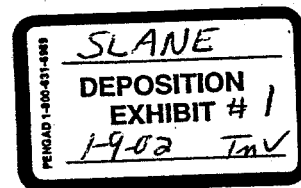
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LAWYER'S NOTES

[illegible]

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August 3, 2001

David Ira Rosenbaum, Esq.
Ruthrauff & Armbrust, P.C.
1601 Market Street, 16th Floor
Philadelphia, PA 19103

RE: U.S.M.D. No. 1:01-CV-763
Northland Insurance Company v. Lincoln General Insurance Company,
J.H.M. Enterprises, Inc. et al.
Our Client No. 15711-0011

Dear David:

Enclosed and served upon you is Lincoln General's Answer, Affirmative Defenses, Crossclaim and Counterclaim, as well Lincoln General's Third Party Complaint against Woolever Brothers.

Lincoln General has given a great deal of thought to its settlement position in this matter. As you will note from the Counterclaim, if Lincoln General is successful, it will recover approximately \$766,000 from Northland. In contrast, if Northland is successful, it will only recover \$126,000 from Lincoln General. Lincoln General believes it has a very good claim for fraud against J.H.M. and Woolever, which will allow it to void the policy, thereby requiring Woolever to pay the full amount of the settlement and all defense costs. However, even if the Court does not void the policy, Lincoln General has very good arguments as to why Northland should be primary, or at a minimum, the parties share on an equal basis. If the parties share on an equal basis, Northland would end up paying Lincoln \$360,000 for the amount Lincoln General has paid in excess of its proportionate share. Lincoln General believes it is very unlikely that it will recover less than \$360,000. In a good faith effort to resolve this matter now without the need of further expense by either party, Lincoln General is willing to accept \$450,000 in full and final settlement of all claims it has against Northland, Woolever, J.H.M. and Statts. This is greater than a \$300,000 reduction in its total damage claim. Hopefully, Northland will recognize that this is a very reasonable demand. Northland should realize that this demand is not simply a

David Ira Rosenbaum, Esq.
August 3, 2001
Page 2

springboard for some lower demand. If that was the case, Lincoln General would have demanded \$650,000. I do not believe that sophisticated businesses need to go through the prolonged settlement process involved in many personal injury cases where the initial demand bears no relationship to the party's true settlement position. In this case, \$450,000 is Lincoln General's true settlement position. This offer will remain open from 20 days of receipt of this letter, which is when you are required to respond to the counterclaim. Please realize that Lincoln General's settlement position will only go up if the litigation continues, especially if it receives favorable rulings on its claim for voiding the policy, which will obviously materially affect the allocation issues between Northland and Lincoln General.

We look forward to your response to this demand.

Very truly yours,

McNEES WALLACE & NURICK LLC

By


Jonathan H. Rudd

JHR/jp
Enclosures

C: Albert Miller, Esq. (w/encls.)

Exh D

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

.....
NORTHLAND INSURANCE
COMPANIES,
Plaintiff

vs.

No. 01-CV-763

.....
LINCOLN GENERAL
INSURANCE COMPANY,
J.H.M. ENTERPRISES,
INC., et al.,
Defendants
.....

Deposition of: MICHAEL J. McGOVERN, ESQ.

Taken by : Plaintiff

Date : January 9, 2002;
10:20 a.m.

Place : Klett Rooney Lieber &
Schorling
240 North Third Street
Harrisburg, Pennsylvania

Before : Therese M. Valente
Reporter - Notary Public

APPEARANCES:

SCHINDEL, FARMAN & LIPSIUS, LLP
By: IRA S. LIPSIUS, ESQ.

For - Plaintiff

McNEES WALLACE & NURICK, LLC
By: JONATHAN H. RUDD, ESQ.

For - Defendants

I N D E X
WITNESS

Examination

MICHAEL J. MCGOVERN, ESQ.

By Mr. Lipsius

4, 80, 93, 94

By Mr. Rudd

31, 88, 94

EXHIBITS

McGovern Deposition
Exhibit Numbers

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1	M. McGovern's Activity Log Sheets.	18
2	Northland Insurance Companies' Claim File Notes.	31
3	Fax from Northland Insurance Companies to M. McGovern, dated 5-10-00.	42

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that sealing, certification and filing are hereby waived; and all objections except as to the form of the question are reserved to the time of trial.

MICHAEL J. McGOVERN, ESQ., called as a witness, being duly sworn, testified as follows:

MS. VALENTE: Will there be the usual stipulations?

MR. RUDD: First of all, I want to put something on the record in terms of this deposition.

Number one, we're here to take the deposition of Mike McGovern and later Traci Slane on issues regarding whether there was a settlement. It is not my understanding, and I'm not prepared to go forward with a full-fledged deposition on all issues involving coverage.

MR. LIPSIUS: I'm sorry. You are not or are?

MR. RUDD: I am not, on all issues regarding coverage between these parties, and I would reserve the right to depose either Mr. McGovern or Ms. Slane at a later point in time on the coverage issues if that becomes necessary once

1 we're further into discovery.

2 Is that acceptable to you?

3 MR. LIPSIUS: That is my understanding as
4 well.

5 MR. RUDD: Okay. Number two, without getting
6 into a lot of details, Mr. Lipsius and I have
7 exchanged correspondence involving some conflict
8 of issues between his firm and Lincoln General.
9 I don't want to get into it in detail, but I am
10 not waiving, and I don't want you to consider my
11 participation today as a waiver of any of our
12 positions on that issue.

13 Is that acceptable?

14 MR. LIPSIUS: I understand that.

15 MR. RUDD: Other than that, I would like to
16 have Mr. McGovern read and sign his deposition,
17 but in terms of objections, usual stipulations
18 are fine.

19 EXAMINATION

20 BY MR. LIPSIUS:

21 Q. Please state your name.

22 A. Michael J. McGovern.

23 Q. Do you want to give us an address where you can
24 be reached? I don't need your home address, if
25 you don't want to give that.

Exam./Lipsius - McGovern

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1 A. I will give you my business address because that
2 will be easier during the day.

3 Office of Chief Counsel, Pennsylvania
4 Department of Corrections, 55 Utley, U-t-l-e-y,
5 Drive, Harrisburg, PA, 17011.

6 Q. And your phone number?

7 A. I'm sorry. Camp Hill, PA, 17011.

8 Q. And your phone number, please?

9 A. (717) 731-0444.

10 Q. Am I correct you are no longer an employee of
11 Lincoln General Insurance Company?

12 A. That is correct.

13 Q. Are you represented by counsel at this
14 deposition?

15 A. No.

16 Q. Am I correct you are an attorney?

17 A. That's correct.

18 Q. As a bit of an introduction -- I'm not going to
19 give the lengthy introduction that would be given
20 to a non-attorney -- but in this unique
21 situation, as you are not represented by counsel,
22 and therefore, assumedly representing yourself,
23 as you are aware, objections can be made with
24 regard to questions I may ask, and I may make
25 objections to questions that Mr. Rudd may ask.

Exam./Lipsius - McGovern

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1 Normally, I would tell the witness if their
2 attorney tells them not to answer, they should
3 not answer. In this case, as you are
4 representing yourself, you will have to make that
5 determination as to whether you want to answer or
6 not answer a question, but neither myself nor Mr.
7 Rudd can direct you not to answer a question. Do
8 you understand that?

9 A. Yes.

10 Q. Have you ever attended a deposition?

11 A. Yes.

12 Q. Have you ever had your deposition taken?

13 A. No.

14 Q. Have you ever taken a deposition?

15 A. Yes.

16 Q. So, you understand the rules of a deposition; the
17 reporter takes everything down; she can only take
18 down one person at a time. If there's an
19 objection, stop, let us resolve the issue on the
20 objection, and then ultimately you will make that
21 decision whether to answer. And all the other
22 normal preliminaries can I pass over at this time
23 because you understand what depositions are all
24 about. Would that be fair?

25 A. Yes.

Exam./Lipsius - McGovern

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1 Q. And you understood what I just said?

2 A. Yes.

3 Q. To keep things moving and make it go a little
4 quicker, if you could just tell me your
5 education.

6 A. I graduated from the Pennsylvania State
7 University with a bachelor's degree in history in
8 1974; I attended graduate school at the
9 Pennsylvania State University from 1978 to 1980,
10 with a master's degree in public administration.
11 I attended the Dickinson School of Law from
12 September 1985 until June of 1988 and was awarded
13 a Juris Doctorate degree.

14 Q. Are you admitted to the bar of the State of
15 Pennsylvania?

16 A. Yes, I am.

17 Q. Are you admitted to any other state bars?

18 A. I am admitted to the state bar of the State of
19 New York and the state bar of the State of
20 Maryland.

21 Q. Are you admitted to the federal bar?

22 A. I am admitted to the Middle District of
23 Pennsylvania, the Western District of
24 Pennsylvania, and the Third Circuit Court of
25 Appeals.

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1 Q. Again, to make things move, instead of asking you
2 each piece at a time, could you give me your
3 employment history, starting with most recent
4 first?

5 A. I currently am employed by the Governor's Office
6 of General Counsel, assigned to the Pennsylvania
7 Department of Corrections. I have been employed
8 there since late June of 2001.

9 Prior to that, I was employed at Lincoln
10 General Insurance in York, Pennsylvania. I was
11 employed there from November 1993 until late June
12 of 2001.

13 Prior to that, I was employed at the law firm
14 of Peters and Wasilefski in Harrisburg,
15 Pennsylvania. And I was employed there from
16 September of 1989 to either late October or early
17 November of 1993.

18 Prior to that, I was employed by the law firm
19 of Gary Lightman in Harrisburg, Pennsylvania. I
20 started working there as a law clerk while still
21 in law school in June of 1987, and continued
22 working there after I graduated from law school
23 and was admitted to the bar, and stayed there
24 until either late August or early September of
25 1989.

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1 Q. I don't need prior employment.

2 What was your position at Lincoln General?
3 Start at the time you left and go backwards, if
4 you can.

5 A. I was employed as an attorney the entire time I
6 was there.

7 Q. Did you litigate files on behalf of Lincoln
8 General?

9 A. Yes, I did.

10 Q. Is that Defense work?

11 A. Yes. And Plaintiff's work.

12 Q. Plaintiff's meaning you represented Lincoln
13 General in cases?

14 A. Yes.

15 Q. Was it done in the name of a law firm or was it
16 done in the name of Lincoln General?

17 A. From 1993, when I arrived until July of 1997, it
18 was in the name of Lincoln General. From July of
19 1997 until July of 1998, it was in the name of a
20 captive law firm. That firm was Kahlbaugh,
21 K-a-h-l-b-a-u-g-h, McGovern & Ykema, Y-k-e-m-a.
22 In July of 1998 the firm was dissolved and we
23 went back to being just direct employees of
24 Lincoln.

25 Q. Now, during the period of July '97 to July '98,

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1 when the litigation was done in the name of
2 Kahlbaugh, McGovern and Ykema, did you receive a
3 paycheck from Kahlbaugh, McGovern and Ykema?

4 A. Yes.

5 Q. Did you also receive a paycheck from Lincoln
6 General?

7 A. No.

8 Q. During the time you worked for Lincoln General,
9 were you involved in the supervision of any claim
10 files?

11 A. Yes.

12 Q. Were these files that you were not the attorney
13 of record for in a litigation?

14 A. Yes.

15 Q. You gave me a job description as an attorney
16 representing Lincoln General, and I think
17 insureds; is that correct?

18 A. Yes.

19 Q. What else did you do there at Lincoln General?

20 A. Drafted contracts and releases, reviewed laws to
21 advise the company on corporate compliance,
22 represented the company internally in
23 unemployment compensation hearings. That's about
24 it.

25 Q. Did you have any formal title at Lincoln General?

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1 A. I was, I believe it was, assistant counsel most
2 of the time.

3 From the period of September or October of
4 1998 until early 2000, I was also Director of
5 Claims or Co-Director of Claims.

6 Q. When did you cease that position or cease the
7 title of Director of Claims?

8 A. That would have been, let's see, around January
9 of 2000.

10 Q. From January of 2000 until your termination of
11 employment, what was your title, if any?

12 A. Just--

13 Q. Assistant counsel?

14 A. Just attorney. Attorney, because we didn't have
15 a chief counsel then.

16 Q. Attorney, okay. And in the beginning of this
17 year, say 2001 -- I'm sorry, last year. In
18 January of 2001, did Lincoln General have a
19 claims department?

20 A. Yes.

21 Q. How many people were in that claims department?

22 A. I will try to add these all up in my head.

23 Q. Approximate is fine.

24 A. I'm going to say approximately 20 people,
25 including clerical staff.

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1 Q. Leaving out the clerical staff, what were the
2 various titles or roles that people had? What
3 positions were there in the department?

4 A. Claims adjusters and supervisory claims
5 adjusters.

6 Q. Do you remember approximately how many claims
7 adjusters?

8 A. Maybe a dozen, maybe 14.

9 Q. Supervisory?

10 A. I am including them in the claims adjusters.

11 Q. Okay.

12 A. Two or three supervisory.

13 Q. Somewhere around ten claims adjusters and two or
14 three supervisory, somewhere in that range?

15 A. Somewhere around there, yes.

16 Q. Were any of the supervisory claims adjusters
17 attorneys?

18 A. In 2001, no.

19 Q. Did any of the claims adjusters report to you?

20 A. No.

21 Q. Who did you report no?

22 MR. RUDD: We are limited to January 2001 on?

23 MR. LIPSIUS: That's correct.

24 A. And I'm answering all questions with that
25 assumption, unless you correct me.

Exam./Lipsius - McGovern

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1 BY MR. LIPSIUS:

2 Q. Correct.

3 A. I reported to Timothy Kirk.

4 Q. What was his position?

5 A. Vice President of Claims.

6 Q. You were involved in claims; correct?

7 A. Yes.

8 Q. Were there specific types of claims you were
9 involved in?

10 A. I was involved in significant claims, claims of
11 significant injury or death. I also litigated
12 smaller claims in the Central Pennsylvania area
13 for the company.

14 Q. Now, in these claims of significant injury or
15 death, generally would there be a claims adjuster
16 on the file with you or would you be handling
17 that alone?

18 A. Generally, if I was litigating it, there would be
19 a claims adjuster; and if I wasn't, there
20 wouldn't be.

21 Q. Did you have any level of settlement authority?

22 A. Yes, and I can't remember if it was 25,000 or
23 50,000 dollars. I'm not sure which.

24 Q. Above that level did you have to get approval
25 from someone?

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1 A. From Mr. Kirk.

2 Q. You're familiar with the J.H.M. Enterprises'
3 claim that is the subject of this litigation?

4 A. Yes.

5 Q. Do you know when you initially became involved in
6 that file?

7 A. Either the day of the accident or within a day or
8 two of the accident.

9 Q. Was there a claims adjuster working with you on
10 this file?

11 A. Initially there was, yes.

12 Q. Do you know who that was?

13 A. Jerry Conwell. To the best of my recollection.

14 Q. J-e-r-r-y or G-e-r-r-y?

15 A. J-e-r-r-y C-o-n-w-e-l-l.

16 Q. Do you know how long he was involved in this
17 file?

18 A. No, I don't. He left the company in late 1998,
19 but I think he was done with his involvement
20 before then.

21 Q. So, at least from late 1998 until you left the
22 company, you had no claims adjuster working with
23 you on the file?

24 A. Not that I recall, no.

25 Q. Was Mr. Kirk your supervisor on this file?

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1 A. Yes.

2 Q. Were there any round table meetings or meetings
3 regarding this file?

4 A. I discussed it with Mr. Kirk when there was
5 something to discuss.

6 Q. Was anyone else in on those discussions?

7 A. Not that I recall.

8 MR. LIPSIUS: Off the record.

9 (Discussion held off the record)

10 BY MR. LIPSIUS:

11 Q. Would you tell me the physical filing system used
12 for the J.H.M. file? Was it put in file folders?

13 A. We, at that time, used the Binder-Tech system.

14 Q. Do you know approximately how large that file
15 was? Are we talking about six inches, a foot?

16 A. Well, the Binder-Tech system is like three-ring
17 binders, but it only used two rings, so that they
18 hang better. And they're the size of a regular
19 three-ring binder. And I believe this file was
20 seven, eight or nine -- at least seven, maybe
21 eight or nine -- of those binders.

22 Q. Each binder was how big? Three inches?

23 A. Two and a half or three inches.

24 Q. Was any computer system used to keep notes or
25 information with regard to the file?

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1 A. No. Other than the file would get printouts
2 sometimes of expenses and things like that to
3 keep track, but other than that, no.

4 Q. Did you keep any type of ongoing log of events
5 that took place in this file?

6 A. I kept handwritten notes of phone calls I had
7 made and things to do.

8 Q. Do you know if anybody else kept handwritten
9 notes?

10 A. I don't know.

11 Q. If someone else had worked on this file, would
12 they have put their handwritten notes in the
13 section where your handwritten notes would be
14 kept?

15 A. That would be the usual course of events.

16 Q. These handwritten notes, were they kept on a
17 sheet of paper?

18 A. Yes.

19 Q. Would that sheet of paper have been inside the
20 file?

21 A. Yes.

22 Q. Would it be on the first binder?

23 A. Everything was laid out uniformly in each of the
24 files, so that depending on what you're looking
25 to, you could go to that numbered section. They

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1 were 1 through 14. And I can't remember for
2 sure, but it was either Section 1, 2 or 3 where
3 the handwritten notes were kept. So, it was near
4 the front of the file.

5 Q. Going back to your beginning involvement in the
6 file, which I believe was 1995; correct?

7 A. If that's when the accident occurred, yes. I
8 know it was around Christmastime, but I don't
9 know what year.

10 Q. I will represent to you from our files and from
11 the Complaint, it took place in November 1995.

12 A. Okay.

13 Q. Did you ever contact anyone at Northland?

14 A. I had several telephone conversations over the
15 course of the matter with Traci Slane. I am not
16 sure if there was someone at Northland prior to
17 her or not.

18 Q. If I mention the name Jerry Parker, would that
19 sound familiar to you? We will show you your
20 notes shortly to help you out.

21 A. Not really, but...

22 Q. Okay. Do you know if Jerry Conwell had any
23 involvement with anyone at Northland?

24 A. I wouldn't know.

25 Q. Would it be normal for him to have had contact

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1 with someone at Northland on this file?

2 A. No, I don't think it would.

3 Q. Would it be normal for Mr. Kirk to have
4 involvement with someone at Northland on this
5 file? Well, do you know if Mr. Kirk had any
6 involvement with anyone at Northland, to the best
7 of your recollection?

8 A. To the best of my recollection, no.

9 MR. LIPSIUS: Let's mark this as Plaintiff's
10 Exhibit McGovern #1.

11 (McGovern Deposition Exhibit #1 marked
12 for identification)

13 BY MR. LIPSIUS:

14 Q. I'd like you to look at what's been marked as
15 McGovern Deposition Exhibit #1, and it is a
16 seven-page document. Can you identify that
17 document?

18 A. This appears to be my notes which would have been
19 in the file.

20 Q. Are those the notes we just spoke about, that
21 would be either in the first, second, or third
22 binder?

23 A. That's correct.

24 Q. I should say first, second or third section of
25 the binder?

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1 A. Section of the binder, yes.

2 MR. RUDD: For the record, so it's clear,
3 these notes are redacted, the copy that has been
4 marked as an exhibit.

5 MR. LIPSIUS: Okay.

6 BY MR. LIPSIUS:

7 Q. Are these notes generally kept in chronological
8 order?

9 A. Generally, yes.

10 Q. Does this refresh your recollection as to the
11 approximate date of the accident?

12 A. Yes, it does.

13 Q. I had asked you about Jerry Parker earlier along.
14 You'll see a note of November 22nd, Call from
15 Jerry Parker.

16 A. Yes.

17 Q. So, does it refresh your recollection you spoke
18 to Jerry Parker, or the note says it, so it's
19 probably true?

20 A. The notes say it, so I'm assuming it was true.

21 Q. But you have no independent recollection of that?

22 A. No.

23 Q. I understand this was over six years ago, so I
24 wouldn't expect that.

25 Now, I believe in the summer of 2000 the

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1 underlying claims were settled; is that correct?

2 A. Yes.

3 Q. Do you recall that settlement?

4 A. Yes.

5 Q. Now, did you discuss that settlement with Traci
6 Slane?

7 A. We're talking about the underlying settlement of
8 the Plaintiffs' claims?

9 Q. Yes.

10 A. Yes, I did.

11 Q. Did you authorize on behalf of Lincoln General
12 certain sums of money to be paid in that
13 settlement?

14 A. Mr. Kirk would have authorized it and I would
15 have conveyed that, yes.

16 Q. So, you conveyed that to Traci Slane?

17 A. Yes.

18 Q. And there were numerous conversations on that as
19 negotiations were taking place?

20 A. To my recollection, yes.

21 Q. And at one point-- Do you recall at one point
22 there were lower numbers and then slowly you
23 raised the limit as to what was acceptable to be
24 paid? Does that refresh your recollection?

25 Look at your notes.

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1 A. Thank you.

2 Q. I don't want to put words in your mouth.

3 MR. RUDD: Take your time, Mike, and read
4 them all.

5 BY MR. LIPSIUS:

6 Q. If you want, I'll give you five minutes. Why
7 don't you go through the whole file. Will that
8 be helpful to you?

9 A. Yes, it would.

10 Q. I was just trying to move it along, but that's
11 fine.

12 (Recess taken)

13 BY MR. LIPSIUS:

14 Q. You reviewed this docket?

15 A. Yes.

16 Q. What should we call it, Activity Log? I called
17 it a docket. Should it be called Activity Log?

18 A. That would be fine.

19 Q. Okay. I'd like you to tell me what you remember
20 as to the negotiations of the settlement with the
21 Plaintiffs, if anything, after reading this log?

22 You can go by the entries. On 8-3, I believe
23 is the--

24 A. I remember it took forever to actually get a
25 demand out of the Plaintiffs and that didn't

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1 happen until almost the time it was scheduled for
2 trial. And when that happened, I started dealing
3 with Traci on those issues.

4 Q. Did you deal with anyone else at Northland, other
5 than Traci, on those issues?

6 A. Not that I recall.

7 Q. Did Traci deal with anyone other than you at
8 Lincoln General on those issues?

9 A. I don't believe so, but I don't know for sure.

10 Q. Did you and Traci agree as to an amount of money
11 that would be paid to the Plaintiffs?

12 A. Yes.

13 Q. And did you and Traci agree as to how that money
14 would be split?

15 A. Yes.

16 Q. Were those monies actually paid to the
17 Plaintiffs?

18 A. Yes.

19 Q. Now, a number of things have been redacted, and
20 you probably don't remember what's in those
21 notes, or maybe you do. I'm not trying to pry
22 into anything that may be a privilege; however,
23 I'd like to at least to know the subject matter
24 of those notes, if you have any idea of that, the
25 redacted sections.

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1 Do you have any recollection?

2 MR. RUDD: Are you talking about the first
3 redaction on what appears to be February 15th of
4 2001?

5 BY MR. LIPSIUS:

6 Q. We can go back one before, and I asked the
7 question about a round table. I see there was a
8 round table to file dec. action on 2-2, which is
9 not redacted, and following that a series of
10 notes that have been redacted.

11 Do you know if those are issues involving the
12 dec. action?

13 A. It says, Round table; file dec. action. So, I
14 would assume they are. I don't recall that
15 meeting, that round table.

16 Q. Were there any round tables to get approval to
17 settle this case for the million, 225?

18 A. I don't recall any.

19 Q. Did you speak with Mr. Kirk about this 1 million,
20 225 settlement?

21 A. Yes.

22 Q. And he approved it?

23 A. Yes.

24 Q. Do you have any notes about those conversations
25 where you obtained the approval? I assume that

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1 would not have been in the February 2000 redacted
2 notes; is that correct?

3 A. I don't know what was in them.

4 Q. You have no idea?

5 A. I have no idea.

6 Q. But since the settlement took place in August and
7 you were having a problem getting a demand from
8 the Plaintiff, it would highly unlikely that you
9 could have discussed that demand back in February
10 of 2000; is that correct?

11 A. That's correct.

12 Q. So, are there any notes indicating that Mr. Kirk
13 approved this settlement for 1 million, 225?

14 A. I don't see any.

15 Q. Would you normally put such notes in your file?

16 A. It would depend. Usually, but not all of the
17 time.

18 Q. Now, we have a redacted note of 2-15, and we have
19 only the last line, which says, Call Northland;
20 see if they want to just call it quits.

21 Do you have any idea what was in that
22 redacted section?

23 A. That would have been discussions concerning the
24 dec. action, I believe.

25 Q. And those discussions would have been with Mr.

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1 Kirk or with someone else?

2 A. They would have been with Mr. Kirk.

3 Q. Would they have been with Mr. Rudd?

4 A. They possibly could have been involving him, too.

5 Q. I don't want to go into anything you discussed
6 with him because that has a privilege, but I just
7 want to know what they were.

8 Now, did you discuss with Mr. Kirk on
9 February 15th-- Tell me what it means, Call
10 Northland; see if they want to call it quits.
11 What does that mean?

12 A. I believe that's pursuant to our discussions. We
13 were interested at that time in mutually -- in
14 executing mutual releases and ending the
15 litigation.

16 Q. Discontinuing the declaratory judgment action;
17 correct?

18 A. That's correct.

19 Q. That would mean that whatever had been paid, had
20 been paid by each of the insurance companies and
21 each would waive their right to get back money
22 one from the other?

23 A. That's correct.

24 Q. Was that discussed with Mr. Kirk?

25 A. Yes.

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1 Q. Did he approve that?

2 A. He approved me contacting Northland to see if
3 they were interested in doing that, yes.

4 Q. This says you called Northland on 2-15.

5 A. Um-hum.

6 Q. So, to the best of your recollection, you left a
7 message on the machine? That's what it says
8 there.

9 A. Yes.

10 Q. Do you recall that independently?

11 A. I had so many contacts with Traci, I don't recall
12 each of them independently, but I would have
13 called, yes.

14 Q. So, normally, what you put there is what you did?

15 A. Generally.

16 Q. Now, on March 12th as an indication, Return call
17 to Traci and left message?

18 A. Yes.

19 Q. Would that have been on the same issue, if you
20 know?

21 A. I don't know, but I would assume it would be,
22 but...

23 Q. Now, on April 2nd, there is a note here, Call
24 from Traci. Agreed we would both pull the plug.

25 What did you mean by pull the plug?

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1 A. That would mean that we would execute joint
2 releases and discontinue the action.

3 Q. Exactly what you talked about a few moments ago;
4 correct?

5 A. Yes.

6 Q. On April 10th, it said, Called Traci; left
7 message. Do you know what your message was?

8 A. No.

9 Q. Would it have been regarding that agreement to
10 settle the case?

11 A. I would assume that it would be. There would be
12 no other reason for me to contact her at that
13 time.

14 Q. Did Traci indicate to you at any time that it was
15 acceptable for Northland to settle the case and
16 pull the plug, so to speak?

17 A. I believe she did, yes.

18 Q. Did you take any further action regarding this?

19 A. No. I was just waiting for her to send the
20 releases.

21 Q. So, the way you understood it was, the plug was
22 going to be pulled, and releases had to be sent?
23 Would this be policy releases? What do you mean
24 by releases? I'm sorry.

25 A. A joint release which spells out in great detail

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1 that each side -- what each side is doing, giving
2 up, what they expect, et cetera, et cetera, and
3 then discontinue the case.

4 Q. Did you expect these releases to be drawn by the
5 attorneys?

6 A. I believe that I expected Traci to have her
7 attorney prepare the releases, was my
8 conversations with her.

9 Q. And was Mr. Kirk aware of this?

10 A. I believe so, yes.

11 Q. And he approved of this?

12 A. Yes. To the best of my recollection, yes.

13 Q. Now, the fact that there's no entry after April
14 10th, does that mean that nothing happened on the
15 file, or just nothing was entered on the file
16 after April 10th?

17 A. That may be the last time I did anything on the
18 file since I left two months later.

19 Q. What were the circumstances of your leaving
20 Lincoln General?

21 A. I got a job offer from the Commonwealth of
22 Pennsylvania.

23 Q. Do you know approximately when that job offer was
24 made?

25 A. End of May of 2001.

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1 Q. And at that time did you give notice to Lincoln
2 General?

3 A. Yes, I did.

4 Q. And your termination at Lincoln General, was that
5 a cordial termination?

6 A. I believe so.

7 Q. And do you still speak to people at Lincoln
8 General?

9 A. Occasionally, yes.

10 Q. With regard to this file, had you ever spoken to
11 anyone from our firm -- my firm -- Schindel,
12 Farman & Lipsius on this file?

13 A. Only when you called me originally to schedule --
14 to talk about it and schedule my deposition. And
15 then someone from your firm called me with
16 regards to serving the subpoena, and I said they
17 could serve it by mail and that would be fine.

18 Q. This would all be subsequent to December of 2001?

19 A. Correct.

20 Q. In December 2001 and after?

21 A. Yes.

22 Q. But not while you were an employee of Lincoln
23 General?

24 A. Correct.

25 Q. Did you ever inform counsel, Mr. Rudd's office,

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1 regarding this settlement? Do you know if you
2 informed them of this settlement?

3 A. I can't recall. I believe I may have, but I
4 don't know for certain.

5 Q. I'm going to read to you from the notes of Traci
6 Slane, and I just want to know if your
7 recollection is at all changed by this or has any
8 effect on it. Just one minor thing.

9 It appears that on April 11th, there's a
10 matching entry to your April 10th date, and I
11 don't know, it could have been she just got the
12 message. I don't know why the date is different,
13 but the issue seems to be the same, but I'm not
14 going to characterize anything.

15 It says that Mike McGovern at Lincoln General
16 called. They are in agreement to walk away from
17 DJ and close files. Called Mike at Lincoln,
18 asking him to have his counsel call Ira and agree
19 to voluntarily dismiss this.

20 Does that refresh your recollection of that?

21 A. No. I'm sorry, it doesn't.

22 Q. You don't remember either way; is that correct?

23 A. No. I don't remember either way.

24 MR. LIPSIUS: Okay. I have no further
25 questions.

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EXAMINATION

1

2 BY MR. RUDD:

3 Q. Mike, I'm going to go through some of Traci
4 Slane's notes with you. With all due respect to
5 your notes, her notes were a little more
6 comprehensive, so I think it might give us a
7 better factual background.

8 MR. RUDD: Ira, do you have a copy of those
9 notes?

10 MR. LIPSIUS: Yes, I do. Do you want to
11 enter it as an exhibit?

12 MR. RUDD: Yes. Why don't we mark this as
13 McGovern Exhibit #2.

14 MR. LIPSIUS: And by stip. we will use that
15 at the Traci Slane and not re-mark it at Traci
16 Slane's deposition.

17 MR. RUDD: That's fine.

18 MR. LIPSIUS: Off the record.

19 (Discussion held off the record)

20 (McGovern Deposition Exhibit #2 marked
21 for identification)

22 BY MR. RUDD:

23 Q. Actually, if you would turn to Page 9. First of
24 all, I assume you've never seen this document?

25 A. No.

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1 Q. Ms. Slane never shared with you her computer
2 diary during any of your dealings with her?

3 A. No.

4 Q. If you turn to Page 9, in the middle of the page,
5 there's an entry for 12-28, 1999. Time was 8:45
6 a.m. It says, and I'm going to just read it
7 conversationally, rather than using the
8 abbreviations, Return Lou call.

9 Were you aware that Lou Bricklin was the
10 attorney who Northland had hired to represent
11 Woolever?

12 A. Yes.

13 Q. It says, He has traded messages with Pipa.

14 Now, Mike Pipa was the attorney that Lincoln
15 General had hired to represent J.H.M. and Bernice
16 Statts in underlying cases; correct?

17 A. That's correct.

18 Q. You had a lot of interaction with Mike Pipa, I
19 assume; is that correct?

20 A. That's correct.

21 Q. And ultimately, Mike Pipa had to report to you
22 any communications, and he got his authorizations
23 through you; is that correct?

24 A. That's correct.

25 Q. The entry says, They will agree to tender their

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1 750,000 if we agree in writing to arbitrate if
2 all claims settle under 1.5 million and within 60
3 days of underlying claims being resolved. Dash.
4 Agreed that was fine, and he will get letter out.

5 Now, do you recall discussions with both Mr.
6 Pipa, and then also obviously Northland's
7 representatives, about the subject that was
8 described here by Ms. Slane about Lincoln General
9 tendering its policy limits of 750,000; then
10 agreeing to arbitrate the coverage issue within a
11 certain time period?

12 A. I recall generally discussions along those lines,
13 yes.

14 Q. So, this statement would conform with your
15 understanding of the proposal and Lincoln
16 General's position, at least their agreement to
17 do that?

18 A. That would be, yes. That's correct.

19 Q. It was acceptable to you to tender your 750,000
20 and then arbitrate with Northland the whole issue
21 of coverage between the two companies; correct?

22 A. Definitely, yes.

23 Q. If you would turn to Page 10. If you go down to
24 the entry, and you can read through those, on
25 January 5th, 2000, it says, Return counsel call,

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1 Moirra.

2 Was that Moira Duggan? Did you know Moira
3 Duggan from Lou Bricklin's office?

4 A. The name doesn't ring a bell.

5 Q. I think we can agree that's who it was.

6 MR. RUDD: Is that acceptable to you, Ira?

7 MR. LIPSIUS: I do not know who Moira is. I
8 will accept your representation, but I have never
9 inquired as to who Moira is.

10 MR. RUDD: I think you will see probably a
11 lot in your claims file that you produced to me
12 showing her name, but let's just stick with Moira
13 then for now.

14 BY MR. RUDD:

15 Q. It says, We have Lincoln's 750,000.

16 Do you remember at some point then conveying
17 through Mr. Pipa that you were willing to tender
18 the 750,000 under the terms that we had described
19 about arbitrating the coverage issue?

20 A. Generally, yes.

21 Q. And then, if you look at the entry for January
22 13th, 2000-- Again, this is Traci Slane's entry.
23 It says, She had faxed letter whether Northland
24 is willing to agree to arbitrate whether the
25 policy may be primary as opposed to concurrent or

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1 excess. Indicates they cannot commit to change
2 until have authority from us.

3 And then right below that, at 10:15 a.m.,
4 Traci Slane says, Called counsel, Moira. Told
5 her I did not have a problem arbitrating if we
6 were primary, as opposed to concurrent or excess.
7 Seemed like that was what we had agreed to. She
8 will get ball rolling on that.

9 Does that conform with your understanding at
10 some point Northland had agreed to go ahead then
11 with your proposal to contribute \$750,000 and
12 then arbitrate the coverage issue?

13 A. My recollection is that there were discussions
14 along those lines, and they had generally been
15 agreed to in principle, but that Lincoln
16 General's position was that in an arbitration all
17 the issues would be decided; who was primary,
18 were they co-primary; if they weren't co-primary
19 and one was primary, was the other one excess,
20 and Northland just wanted -- Northland didn't
21 want to put all the issues before the arbitrator.

22 Q. At least from this entry on January 13th, 2000,
23 if you read what she says initially, is it fair
24 to say the position -- where she says, I did not
25 have a problem arbitrating if we were primary as

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1 opposed to concurrent or excess; seemed like that
2 is what we had agreed to.

3 A. Yeah.

4 Q. So, at some point, in principle, you had agreed
5 to arbitrate who was primary, concurrent or
6 excess between Lincoln General and Northland; is
7 that correct?

8 A. I don't recall exactly. I recall that there were
9 a lot of discussions on arbitration, and
10 everybody agreed it was a good idea and there
11 were some problems with the exact language of the
12 agreement.

13 Q. You had said before that you felt you had agreed
14 in principle.

15 A. Yes.

16 Q. Is it fair to say there was never a written
17 agreement outlining all the terms?

18 A. To the best of my knowledge, there never was, no.

19 Q. As an attorney, was it your understanding that
20 until you had that written agreement outlining
21 all the terms, Lincoln General wouldn't be able
22 to bind Northland to this agreement in principle
23 to arbitrate the coverage issues?

24 A. That's correct.

25 Q. As we can see from the next page after apparently

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1 Traci Slane had agreed to this, she talked to a
2 JP -- I'm assuming that's Jerry Parker, but it
3 doesn't say that.

4 MR. LIPSIUS: What entry are you referring
5 to?

6 MR. RUDD: On 1-13-00, which at the very top
7 says, Discussed with JP.

8 MR. LIPSIUS: Okay.

9 BY MR. RUDD:

10 Q. This entry then says, Do not want to arbitrate
11 that we are primary and Lincoln is excess because
12 we have 2 million dollar policy, and if we get
13 bad result, then we would owe entire loss, and we
14 know that Lincoln is primary.

15 And it goes on below that to say, If they
16 want to argue we are primary, then file dec.

17 And at the very bottom says, Will not agree
18 to arbitrate primary issue if Lincoln does not
19 agree they are primary.

20 Which, you'll agree with me, is different
21 than what Traci Slane said in the prior note that
22 she had no problem arbitrating?

23 A. It appears to be different. That's correct.

24 Q. Did you have a problem with Traci Slane going
25 back to someone at Northland, her superior or

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1 some other person, before there was a written
2 agreement to arbitrate and changing Northland's
3 position?

4 A. No.

5 Q. Did you understand that until there was a written
6 agreement outlining all the terms, that there was
7 no meeting -- a complete meeting of the minds and
8 that Northland was free to change its position on
9 whether or when to arbitrate?

10 A. That's correct.

11 Q. Did you at any time ever try to bind Northland to
12 its previous agreement in principle to arbitrate
13 the coverage dispute?

14 MR. LIPSIUS: Object as to form. The witness
15 did not testify that there was an agreement. His
16 recollection was that there was not an agreement,
17 just discussions.

18 MR. RUDD: I wrote down that he said they had
19 agreed in principle.

20 MR. LIPSIUS: The record will speak for
21 itself.

22 A. We had agreed in principle that it would be a lot
23 quicker and more economical to arbitrate this
24 matter than to go through a dec. action. And so,
25 we had agreed to arbitrate, but we had never been

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1 able to fully agree on the exact terms of what
2 the arbitrator would be asked to decide, which
3 was the issue, which is why it was never done.

4 BY MR. RUDD:

5 Q. So, even though Traci Slane seemed to have no
6 objection to it initially, this JP did, so it
7 never went forward?

8 MR. LIPSIUS: Object, same. You can answer.

9 A. I don't know who JP is. I know it never went
10 forward.

11 BY MR. RUDD:

12 Q. And you never tried to enforce any agreement to
13 arbitrate?

14 A. No.

15 Q. I want to jump ahead to the entries on Page 16 of
16 McGovern Exhibit #2. The first entry of May 5th,
17 2000 at 3:45 p.m. Again, this is Traci Slane
18 entering this information.

19 It says, Return Mike McGovern at Lincoln
20 General. It gives your number. Said he has
21 coverage counsel retained to file dec. action.

22 It's a declaratory judgment action, I assume;
23 correct?

24 A. Yes.

25 Q. You're referring to our office; is that correct?

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1 A. That's correct.

2 Q. They had proposed to settle the case and proposed
3 to binding arbitration. Told him we would be
4 willing to try and resolve the underlying cases
5 and litigate the coverage issue.

6 Then it goes on to say, This is a hard coal
7 mining county; 30 percent unemployment rate.
8 Average age of residents is 50's.

9 Then it says, They would consider agreeing to
10 settling the cases and litigating the dec.
11 action. Apparently, that's something you
12 communicated to Ms. Slane?

13 A. Yes.

14 Q. And then it gives your address, fax number, your
15 e-mail. And it says, Said to get letter
16 outlining what we are thinking and then he will
17 review and get back to me.

18 I want to stop right there. Why did you want
19 a letter outlining what Northland was thinking?

20 MR. LIPSIUS: Object. There has been no
21 testimony that he wanted a letter, but...

22 MR. RUDD: Let me back up.

23 BY MR. RUDD:

24 Q. Based on this note, did you tell Traci Slane that
25 you wanted a letter from her outlining what

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1 Northland was thinking?

2 A. I have no specific recollection of that specific
3 conversation, but in any dealing with any other
4 insurance company or attorney for any party, any
5 discussions with settlement, I always requested
6 that they send me some sort of written document
7 so that we were absolutely sure we were on the
8 same page, so there weren't problems and
9 misunderstandings later of a "he said, she said"
10 sort of situation.

11 Q. That is just a general practice that you employed
12 throughout your career as a lawyer and at Lincoln
13 General?

14 A. That's correct.

15 Q. Was another reason that you wanted a letter so
16 you can review it with Mr. Kirk so there was no
17 confusion in your communication to Mr. Kirk what
18 Northland had communicated to you?

19 MR. LIPSIUS: Object as to form. You can
20 answer the question.

21 A. Yeah. I would review any documents that
22 Northland sent me with Mr. Kirk, after I had
23 reviewed them so I could discuss them
24 intelligently with him.

25 BY MR. RUDD:

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1 Q. Ultimately, would Mr. Kirk then made a decision
2 whether to go along with whatever proposal
3 Northland had offered?

4 A. That's correct.

5 Q. All right. And then it goes on in that May 5th,
6 2000 conversation: His one condition is that we
7 resolve this claim quickly. Told him we are in
8 process of filing dec. -- again, it's a
9 declaratory judgment action, I assume -- and plan
10 on proceeding with the declaratory judgment
11 action as the tort claim progresses and get it
12 all resolved ASAP.

13 Do you remember talking to Ms. Slane about
14 getting it resolved quickly?

15 A. I remember general conversations with her along
16 those lines, yes.

17 MR. RUDD: I'd like to mark this as McGovern
18 Exhibit #3.

19 (McGovern Deposition Exhibit #3 marked
20 for identification)

21 BY MR. RUDD:

22 Q. We have marked McGovern Exhibit #3. We were at
23 Page 16 of the claims diary from Northland, where
24 you had requested a letter. And this apparently
25 was at-- It says, 3:45 p.m. you requested a

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1 letter from Ms. Slane outlining what Northland
2 was thinking.

3 We marked as Exhibit #3 a two-page document;
4 the first page, which is a fax transaction
5 report, which at the top says, May 10th,
6 Wednesday, 5:13 p.m. So, it appears that in less
7 than two hours Ms. Slane had faxed to your
8 attention a letter. Is that fair to say? Do I
9 have this right?

10 Okay. I am sorry. I am sorry. We were
11 talking May 5th, 2000 at 3:45 p.m. and now we are
12 May 10th. So, five days later Ms. Slane faxed to
13 your attention a letter; is that correct?

14 A. That's correct.

15 Q. I apologize for the confusion.

16 On the second page of the document, which is
17 the body of the letter, it's to your attention.
18 Under comments it says, Mike, this is a follow-up
19 to our telephone conversation on May 5, 2000. We
20 are in the process of filing a declaratory
21 judgment action regarding the above matter.
22 However, we would like to try and resolve the
23 underlying claims at the same time. We propose
24 that we each pay half of the settlements of the
25 underlying claims and proceed to dispose of the

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1 coverage issues with the declaratory judgment
2 action that is being filed. Please review and
3 call me to discuss at your earliest convenience.

4 Is this the type of letter you were looking
5 for from Traci Slane setting forth Northland's
6 proposal?

7 A. Yes.

8 Q. Did you then take this letter to Mr. Kirk to then
9 discuss what Northland was proposing?

10 A. I believe I would have, yes.

11 Q. It appears that on Page 17 of the claims diary,
12 on May 18th, 2000, it says 9:50 a.m., Called Mike
13 at Lincoln General.

14 MR. LIPSIUS: What page are you on?

15 MR. RUDD: Page 17.

16 BY MR. RUDD:

17 Q. I'm just looking at your activity log to see if
18 you have any corresponding entry.

19 I don't see an entry on here for May 18,
20 2000, but it says here under the entry where she
21 called you, They are willing to do 50/50 split.
22 Not sure 1.5 million is going do it, but good
23 start. Asked him about opening offer and he
24 wants to do conference call next week with his
25 attorney and ours, all four of us.

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1 Now, in that time period between May 10th and
2 May 18th when you had the subsequent call with
3 Slane saying that you were willing to do the
4 50/50 split, it's your testimony you would have
5 talked to Mr. Kirk to get that approval?

6 A. If I had not received that approval from him
7 before.

8 Q. You might have received it based on some earlier
9 conversations with Ms. Slane?

10 A. That's correct.

11 Q. Would you normally, though, have reviewed this
12 letter setting forth the specific terms of what
13 Northland was proposing with Mr. Kirk or the
14 substance of it with Mr. Kirk?

15 A. I would have discussed the substance of it.

16 Q. And you would have made sure that Mr. Kirk was
17 agreeable to this proposal?

18 A. Yes.

19 Q. If you turn in Exhibit #2, the Northland claims
20 diary, to Page 22. Go down to the entry on July
21 5th, 2000. It says, 10:45 a.m., Returned call
22 Lou -- Lou Bricklin, again.

23 I want to direct your attention to the bottom
24 of that entry.

25 A. Page 23?

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1 Q. On Page 22. July 5th, 2000.

2 A. My Page 22 ends at June 27th, 2000.

3 Q. Let me see. That's Page 21, I'm sorry.

4 I am looking at the top. You are right. I
5 am looking at the computer -- not the Bates
6 stamped number, but the computer page number at
7 the top, Page 22. Do you see the July 5th, 2000
8 entry?

9 A. Yes.

10 Q. Very bottom of that entry says, Mulligan
11 attorney, and let me just back up there. There
12 were two actions, two primary actions. I think
13 there was actually a third subrogation claim
14 involving damage to one of the vehicles, but what
15 I'm primarily talking about is the two personal
16 injury actions. One of them involved who we
17 called the Cliffords; is that correct?

18 A. That's correct.

19 Q. And the other one involved the Mulligans?

20 A. Cheryl Mulligan, yes.

21 Q. Cheryl, and her husband Dennis, I guess, has
22 earned some loss of consortium claim possibly.

23 And these were being handled, or at least
24 settled separately? There was not a combined
25 offer made to both the Cliffords and Mulligans;

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1 is that correct?

2 A. That's correct.

3 Q. You were aware that Northland was taking the lead
4 in attempting to settle the Mulligan case?

5 A. I don't recall it, but I can't dispute it. It
6 may have.

7 Q. Somebody apparently had made offers to the
8 Mulligans; is that correct?

9 A. I'm sure we eventually did because it settled.
10 The thing I remember is that-- The only thing I
11 really remember about the Mulligans is that we
12 had a great deal of trouble, all of us, in
13 getting a demand or any response at all from her
14 attorney, to the point where the Judge was
15 getting rather upset with him because his failure
16 to respond was apparently delaying settlement of
17 all the matters.

18 And really, other than that, and the fact
19 that she wasn't seriously injured is what I
20 remember of Cheryl Mulligan.

21 Q. The entry says, Mulligan attorney has asked us to
22 send the release for \$125,000. Not sure if it is
23 settled, so they have asked him in cover letter
24 if case is actually settled or not.

25 And you talked about the Mulligan's attorney,

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1 but did you believe that the Mulligan case was
2 settled prior to when the Mulligans actually
3 signed the release?

4 A. No.

5 Q. Did you understand that the Mulligans could back
6 out at any time before they actually signed the
7 release?

8 A. Yes.

9 Q. That was just background to an entry on July
10 14th, 2000, where at 8:40 a.m., it says, Mike at
11 Lincoln General called. It says, Told him we had
12 release out on Mulligan claim. Not sure, but
13 appeared that one was going to settle.

14 Again, was it your understanding when you had
15 this conversation with Traci Slane that the
16 Mulligan case had not yet been settled because
17 you didn't have the release back?

18 A. I had no specific recollection of the specific
19 conversation, but that would generally be my
20 feeling, yes.

21 Q. Okay. If Traci Slane had told you that the
22 release was out, but had not yet been received
23 back, your general recollection would be that the
24 case had not yet been settled?

25 A. That's correct.

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1 Q. Even if the attorney had said his clients were
2 willing to take the 125,000?

3 A. That's correct.

4 Q. At the very bottom of that page, July 19, 2000,
5 the entry says, Mulligan case settled. Has
6 release.

7 Was it your understanding that once the
8 releases came back signed by the Mulligans, the
9 case then was finally settled?

10 A. That's correct.

11 Q. But had not yet been settled before then; is that
12 correct?

13 A. That's correct.

14 Q. I want to jump ahead then to Page 24 of McGovern
15 Exhibit #2. There are multiple entries, but the
16 entry for August 10th, 2000, where it says, TT
17 Mike at Lincoln General.

18 I assume that means talked to Mike at Lincoln
19 General.

20 Let me just read this for the record, so we
21 know what my following questions refer to. It
22 says, He felt that the -- it says lost offer, but
23 I think it means the last offer -- was take or
24 leave it, and since they left it, we should
25 proceed. Said we felt we need to settle the case

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1 and I had authority to settle it.

2 Then it says, He will talk to his people and
3 let me know if they are willing to go one-half.

4 First of all, let me just stop right there.
5 When you told Ms. Slane that you would talk to
6 your people and let her know if your people were
7 willing to go one-half, who were you referring
8 to?

9 MR. LIPSIUS: I object. This is based on
10 notes of someone else. He has not testified that
11 he said any of this. If his recollection is that
12 he did, that's fine, but let him so testify.

13 A. I have a general recollection of Traci calling me
14 at one point because we had given them a take it
15 or leave it offer, and they had left it, and it
16 was our position that once you give someone a
17 take it or leave it offer and they have left it,
18 then you get ready for trial.

19 Obviously, there are exceptions to that. So,
20 at that point if we were going to do anything
21 other than the take it or leave it, I would have
22 had to confer with Mr. Kirk.

23 BY MR. RUDD:

24 Q. So, the reference to, Talk to his people, and
25 this is her notes, but he will talk to his

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1 people, that's a reference to you will talk to
2 Mr. Kirk?

3 A. That's correct.

4 Q. And see if even though they left your take it or
5 leave it offer whether you were still willing to
6 go to one-half?

7 A. That's correct.

8 Q. That's not a decision you would have made on your
9 own?

10 A. No.

11 Q. Continuing with her note, it says, Told him they
12 could give us the rest of their limits and then
13 we would make up the difference to settle the
14 Clifford's case, and then we would dismiss DJ,
15 declaratory judgment, and would be done.

16 Do you remember Traci Slane saying something
17 to that effect to you?

18 A. Not independently, no.

19 Q. You wouldn't deny with her statement here,
20 though?

21 A. No. I have no recollection either way of that.

22 Q. Then, apparently, you said, Said they want their
23 money back from us and not willing to do that.
24 He really thinks they will prevail on the
25 declaratory judgment and we will owe them back

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1 everything.

2 Then she said, Told him I did not agree, but
3 if not interested, then let's settle Clifford and
4 litigate the coverage. He will get back to me.

5 Do you recall ever telling Traci Sloane--

6 MR. LIPSIUS: Slane.

7 MR. RUDD: I'm sorry, Slane. Thank you.

8 BY MR. RUDD:

9 Q. --Traci Slane that you were not agreeable to
10 simply dismissing the declaratory judgment action
11 and being done?

12 A. At that time, yeah, because we were still trying
13 to settle the underlying case. Yes, I do.

14 Q. And do you also recall telling her that you felt
15 that Lincoln -- well, not that you felt, but
16 telling her that Lincoln General wanted its money
17 back?

18 A. I remember saying that several times. We
19 discussed that.

20 Q. All right. And do you remember telling her that
21 you were not willing to drop, dismiss the
22 declaratory judgment action and be done because
23 you thought that Lincoln General would prevail on
24 the declaratory judgment and Northland would owe
25 Lincoln General everything back?

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1 A. We had, I think, more than one discussion on that
2 matter, and we just eventually kind of agreed to
3 disagree.

4 Q. So, let's just try to summarize here, so we're
5 not confused. August 10th, 2000. At that point,
6 at least, it was your feeling that, number one,
7 Lincoln General would prevail in a coverage
8 dispute with Northland; is that correct?

9 MR. LIPSIUS: Object. That was not the
10 witness' testimony.

11 BY MR. RUDD:

12 Q. Let me ask you this: As of August 10th, 2000, or
13 sometime around there, before the Clifford case
14 had been settled, was it your view that Lincoln
15 General would prevail in a coverage dispute with
16 Northland?

17 A. I think it was my view that we had an excellent
18 chance of prevailing.

19 Q. Would you have conveyed that view on to Mr. Kirk?

20 A. Yes.

21 Q. Was one of the factors that you were considering
22 that Lincoln General's downside, in terms of how
23 much more it would have to pay out if it lost the
24 coverage dispute, was very small compared to its
25 upside if it prevailed?

1 A. I don't recall specifically if that was one of
2 the-- That wouldn't be a part of my analysis as
3 to whether or not we were going to win. That
4 would be afterwards.

5 Q. Let me just ask you this: Were you aware that
6 Lincoln General's policy limits were 750,000 and
7 Northland's limits were 2 million?

8 A. Yes, I was aware of that.

9 Q. And you knew that Lincoln General would never
10 have to pay more than 750,000; is that correct?

11 A. That's correct.

12 Q. But you knew that Northland could have to pay up
13 to 2 million?

14 A. That is correct.

15 Q. As a lawyer did that factor at any time into your
16 decision-making whether to go along with
17 Northland's suggestion that you just drop the
18 declaratory judgment action and be done with the
19 case?

20 A. My recollection is that we were unwilling to
21 consider dropping the declaratory judgment action
22 at any time prior to the final settlement and
23 resolution and release of all of the underlying
24 claims. And my primary concern at that time was
25 the issue of, if we could not get this settled

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1 and went to trial because there were two people
2 who had died in the accident leaving, I'm not
3 sure how many, but a number of children, it was
4 conceivable that the jury would award in excess
5 of the policy, combined policy limits, the two
6 and three-quarter million dollars, so that until
7 everything underlying was settled, we weren't
8 willing to do anything that might in any way
9 jeopardize any defense or offensive action we
10 might take if the jury award exceeded the limits
11 and we were hit with a bad faith claim. And that
12 included keeping the dec. action open, because
13 that was going to decide whether we were in or
14 not. That if we had won the dec. action and they
15 had said, you know, you are not in at all; there
16 was no coverage, then we would not have that
17 problem in an excess verdict.

18 Q. It appears that Northland had suggested back in
19 August of 2000, just basically dropping the
20 coverage dispute between the two of you and
21 settling the underlaying cases for each
22 contributing one-half, but you were not in
23 agreement with that?

24 A. To the best of my recollection, that is correct.

25 Q. When I say you, you would have communicated with

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1 Tim Kirk, and Tim Kirk would have ultimately made
2 that decision; is that correct?

3 A. That's correct.

4 Q. And you would have conveyed that back to Ms.
5 Slane?

6 A. Correct.

7 Q. Well, actually, on August 10th, later on -- it
8 doesn't give a time when she first talked to you,
9 where it says, Talked to Mike at Lincoln General,
10 but towards the bottom of the page it does say
11 3:40 p.m. on August 10th, Mike called. It says,
12 They will go one-half up to the 1.25 million.
13 They want to proceed with DJ. Are not interested
14 in tendering the rest of their limits, period.

15 Is that a fair statement of what you would
16 have communicated to Ms. Slane?

17 A. If that's what she says, yes.

18 Q. Would that have been information that you would
19 have received from Tim Kirk?

20 A. Yes. It's something I would have discussed with
21 Tim Kirk as to how to proceed.

22 Q. And Tim would have made the decision ultimately
23 only to offer one-half up to 1.25 million?

24 A. That's correct.

25 Q. Now, I'd like you to, because I have some

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1 questions involving conversations in November,
2 but if you want to just go through Ms. Slane's
3 notes from basically where we let off, August
4 10th, 2000, read the next couple of pages, I want
5 you to have looked at those before I ask you the
6 next question.

7 (Discussion held off the record)

8 MR. RUDD: Back on the record.

9 BY MR. RUDD:

10 Q. We had been talking about the conversation you
11 had with Ms. Slane on August 10th, 2000. At that
12 point you had said you wanted to proceed with
13 declaratory judgment action.

14 Then if you jump over to November 20th--
15 Would you agree that it does not appear in the
16 intervening time between August 10th up through
17 November 20th, that there's any entry indicating
18 that you had changed your view on proceeding with
19 the declaratory judgment action?

20 A. That's correct.

21 Q. On November 20th, 2000, apparently, Ms. Slane had
22 a conversation with Moira. It says in the middle
23 of that entry, Told her I need to know when--
24 Let me back up a little bit and explain what
25 she's talking about.

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1 First of all, Said Lincoln General would be
2 sending their checks direct to the Plaintiff.
3 Told her I need to know when that is received so
4 we can dismiss the declaratory judgment. She
5 will let me know.

6 Do you have an explanation why Northland
7 would be proceeding to dismiss the declaratory
8 judgment in November 20th, 2000, when there had
9 been no agreement by Lincoln General to go ahead
10 and do that?

11 A. No.

12 Q. So, if Northland had proceeded to dismiss the
13 declaratory judgment upon receipt or upon Lincoln
14 General sending its settlement checks to the
15 underlying Plaintiffs, you would have been
16 surprised?

17 A. Yes.

18 Q. Is it fair to say that would have been contrary
19 to your understanding and discussions with Ms.
20 Slane, if she had gone ahead and dismissed the
21 declaratory judgment?

22 A. Yes.

23 Q. If you look again on November 20th, 2000,
24 apparently there was a later call with Moira,
25 five minutes later than the previous call. Here

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1 it indicates, Has telephoned -- has talked to
2 Plaintiff office. They talked to Pipa last week
3 and was somewhat upset that he had not received
4 the checks from carrier. Would hold off in
5 dismissing the declaratory judgment for right now
6 since Lincoln General has not issued their
7 checks.

8 Once again, is it fair to say that it was not
9 your understanding and it was not your agreement
10 to dismiss the declaratory judgment upon Lincoln
11 General tendering the checks to the underlying
12 Plaintiffs?

13 A. That is correct.

14 Q. It was not your intent to do that?

15 A. To the best of my recollection, no.

16 Q. I want to compare McGovern Exhibit #1, which was
17 your activity sheet, Activity Log Sheet, with
18 Exhibit #2, which is Northland's computerized
19 claims diary. Your Activity Log Sheet indicates
20 on February 15th, 2001 -- it says, Call Traci
21 Slane. Left message.

22 A. Yes.

23 Q. If you look at Traci Slane's log, I think you'll
24 agree with me there is no entry for February
25 15th, 2001; is that correct?

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1 A. That is correct.

2 Q. You agree with me that other than saying, Left
3 message, you don't recall what specific message
4 you left for Ms. Slane; is that right?

5 A. It says, Call Northland. See if they want to
6 just call it quits. Call Traci Slane. Left
7 message.

8 So, I don't know exactly what I would have
9 said in the message to her. I probably would
10 have just said, Call me, but other than that, I
11 don't know what the details of the message are.

12 Q. So, it's possible that the message on February
13 15th, 2001 to Traci Slane was simply to identify
14 who was calling and asking her to call you back?

15 A. That's correct. I have no recollection.

16 Q. You are not testifying that you left a
17 substantive message telling her why you were
18 calling or what your proposal was?

19 A. That's correct. I can't recall one way or the
20 other.

21 Q. What we do know is that Traci Slane did not
22 record anything about February 15, 2001 and you
23 leaving any substantive message; is that correct?
24 In her diary?

25 A. That is correct.

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1 Q. Now, your next entry is on March 12th, 2001; is
2 that correct?

3 A. That is correct.

4 Q. It says, Return call to Traci Slane. Left
5 message.

6 Once again, would you agree with me that
7 Traci Slane has no entry indicating on March 12th
8 that the two of you talked or that you left a
9 message?

10 A. That's correct.

11 Q. And once again, is it fair to say that you can't
12 tell us what you might have left in that message
13 on March 12th, 2001?

14 A. Other than my name and a phone number, no.

15 Q. You're not telling us that on March 12th you left
16 any substantive message about Lincoln General's
17 proposal?

18 A. No. Since I don't know what I left, I don't
19 recall.

20 Q. So, the first date that we know that you actually
21 talked person-to-person with Traci Slane and just
22 didn't leave a message is on April 2nd, 2001,
23 about this subject of a possible settlement; is
24 that correct?

25 A. Yes.

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1 Q. And both of you do have notes as of April 2nd.
2 Yours says, on your handwritten claims entry for
3 April 2nd it says, Call from Traci Slane. Agreed
4 we would both pull the plug.

5 Now, I want to compare that to Ms. Slane's
6 entry and see what you recall about what she
7 recollects or has put down, at least.

8 First of all, her entry says, Mike McGovern
9 at Lincoln General called. Your entry says, Call
10 from Traci Slane. Do you have a recollection of
11 who called who?

12 A. No, but if I called somebody and they called me
13 right back, or they called me and I called them
14 right back, I wouldn't have done a lot of
15 entries.

16 Q. All right. It says, Apparently you asked-- This
17 is her notes. You asked if there was any
18 interest in walking away. Told him we were
19 interested, but needed their consent to dismiss
20 the lawsuit. He will let his counsel know that
21 will probably happen and call me to confirm once
22 he talks to their accounting people.

23 Now, based on her entry, would you agree that
24 there was no final decision made to settle the
25 case on April 2nd, 2001, if you still needed to

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1 talk to your accounting people?

2 MR. LIPSIUS: You are asking him to interpret
3 or make a legal conclusion -- to that extent, I
4 object -- and to interpret her notes. If he
5 wants to answer it based on his notes, that's
6 fine. I don't think he should conjecture as to
7 her notes. But you're free to answer the
8 question any way you please.

9 MR. RUDD: Let me break it down then.

10 BY MR. RUDD:

11 Q. First of all, would you disagree with her
12 statement in her claims diary that you told her
13 that you needed to talk to your accounting
14 people?

15 A. I would have told her I had to talk to someone,
16 but I'm not sure why I would have said our
17 accounting people. That's the only thing here
18 that mildly confuses me because I don't know for
19 sure what they would have had to do with it.

20 Q. But you would have told her you had to talk to
21 someone--

22 A. Yeah.

23 Q. --in authority above you?

24 A. Yeah.

25 Q. So, you would have made it clear on April 2nd

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1 that you did not have the authority at that point
2 in time to make a final decision that this case
3 was going to be settled?

4 A. No. My recollection is that I had discussed this
5 possibility with Mr. Kirk, and he had said to
6 speak to them, and then find out what they said,
7 and move from there.

8 Q. So, once you found out what they said, you were
9 supposed to go back to Mr. Kirk with what they
10 said; is that correct?

11 A. That would be my recollection, yes.

12 Q. And Mr. Kirk would make the final decision what
13 to do at that point; is that correct?

14 A. That's correct.

15 Q. So, in terms of your note that says, Agreed we
16 would both pull the plug, is it fair to say that
17 there was no final agreement on April 2nd, 2001
18 that both sides would simply walk away from this
19 case?

20 A. Not until there-- No. I think at that time what
21 we envisioned was, again, written mutual releases
22 which would be spelling out everything to
23 everybody's satisfaction. At that point the
24 releases would be executed and Mr. Kirk would
25 have to execute it on behalf of Lincoln. Then

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1 that would settle the matter.

2 Q. So, it was your view that until that happened,
3 until Mr. Kirk signed the release on behalf of
4 Lincoln General, this case was not formally
5 settled?

6 A. That's correct.

7 Q. And similar to what I have been going through
8 before in the background, did you view this
9 similar to the discussions you had with Traci
10 Slane about agreeing to arbitrate the coverage
11 issue, where you had an agreement in principle,
12 but eventually things broke down and you never
13 had a final written agreement?

14 A. That's correct.

15 Q. Did you also view it similar to the Mulligan
16 settlement, that even though the attorney had
17 indicated acceptance of the offer, you didn't
18 believe the Mulligan case was settled until you
19 had that release in your hand?

20 A. That's correct.

21 Q. So, is it fair to say that although your note is
22 short, where it says actually, Agreed we would
23 both pull the plug, that was simply at that point
24 a proposal you were going to then take back to
25 Mr. Kirk and discuss?

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1 A. I think that's a proposal I would have-- Before
2 I spoke to her about something of that import, I
3 would have spoken to Mr. Kirk about that, and he
4 would have approved my approaching them. I
5 wouldn't have approached them with that sort of
6 proposal without first discussing it with him. I
7 would have discussed it with him; he would have
8 said, Contact them and get the written
9 agreements, releases, so that we can review them,
10 request any changes, and then execute them.

11 Q. Now, apparently, there was a subsequent exchange
12 of messages. You have April 10th, Called Traci
13 Slane. Left message. As Mr. Lipsius pointed
14 out, her entry indicates April 11, 2001, Mike
15 McGovern called. I assume this means left
16 message on phone mail, LM on PM, I think it's
17 fair to say.

18 It says, They are in agreement to walk away
19 from DJ and close files.

20 Now, first of all, you would agree, again,
21 that your message on April 10th, 2001 doesn't say
22 specifically what you left in your message?

23 A. That's correct.

24 Q. And you have no independent recollection of what
25 you left in your message?

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1 A. No.

2 Q. And was there any way that Lincoln General
3 recorded or kept track of the messages it left on
4 other people's voice mail?

5 A. Not that I'm aware of, no.

6 Q. So, what we're going from in terms of what
7 message you left is what Ms. Slane put down where
8 it says, They are in agreement to walk away from
9 DJ and close files?

10 A. Yeah.

11 Q. And this is also the same individual who earlier
12 on, in November of 2000, told her attorney simply
13 to dismiss the DJ once you paid the settlement
14 funds; is that correct?

15 A. That's what her notes say. I'm not privy to her
16 conversation.

17 Q. Despite that, it's your testimony you never
18 agreed back in November of 2000 to dismiss the
19 declaratory judgment action?

20 A. No.

21 Q. Then it says in her note on April 11, 2001,
22 Called Mike at Lincoln General. Left message on
23 phone mail asking him to have his counsel call
24 Ira and agree to voluntarily dismiss this.

25 First of all, you don't have any record of

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1 Ms. Slane even calling you back, do you?

2 A. No.

3 Q. Based on your prior entries, wouldn't you think
4 you would have put an entry there if Ms. Slane
5 had called you back and left that type of
6 message?

7 A. I would say it would be most likely. I can't
8 guarantee that I would have, but it would have
9 been highly likely.

10 Q. Is it possible that the voice mail system at
11 Lincoln General was such that she might have left
12 this on someone else's message?

13 A. I can't speculate as to what she might have done.
14 The voice mail system at Lincoln, at that time if
15 you called and you were-- You called and then
16 you hit the person's extension, and it put you to
17 their phone, and then their phone would say --
18 you recorded your own message, and it would say,
19 This is so-and-so; I can't come to the phone now,
20 or whatever you put, please leave a message at
21 the sound of the tone. I will return your call
22 as soon as possible.

23 At least that's how mine was and how
24 everybody I knew was. So, mine would have said,
25 This is Michael McGovern.

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1 Q. Ever have any malfunctions in the voice mail
2 system where it was overloaded and you didn't get
3 your messages?

4 A. I can't ever recall having that problem. I think
5 it kicked out at like a hundred or so, and when
6 somebody was off for a month or so at one time,
7 that happened, but I never experienced that, to
8 my knowledge.

9 Q. Ever have a situation where you accidentally
10 deleted a voice mail?

11 A. I have occasionally done that, yes.

12 Q. Is it possible that you would have maybe skipped
13 over a voice mail as you were cycling through
14 your messages?

15 A. That's conceivable.

16 Q. So, you can't say sitting here today whether you
17 received -- not whether the system received it,
18 but whether you, yourself received that return
19 message from Traci Slane indicating that you were
20 to call Ira and have-- I'm sorry. That you were
21 to have your counsel call Ira and agree to
22 voluntarily dismiss this?

23 A. I can say that I have no recollection of that
24 message. I have no recollection of having
25 received that message. And, to my knowledge, the

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1 first I knew that Mr. Lipsius was involved was
2 when he called me about this deposition. I
3 didn't remember his involvement before then.

4 Q. That was in December of 2001?

5 A. That's correct.

6 Q. Way after you left Lincoln General?

7 A. That's correct.

8 Q. So, as I understand it, the last contact you had
9 that you recall with Traci Slane is that she was
10 to send you documents indicating Northland's
11 proposal which you were going to review with Mr.
12 Kirk?

13 A. Yes. She could have sent a letter or she could
14 have just sent-- Sometimes people just send a
15 release, and say, If this is fine, sign it; if
16 not, why don't you pencil in the changes and fax
17 it back. But, yeah, I was waiting for something.

18 Q. Did you ever receive any type of document from
19 Ms. Slane or anyone else at Northland, or their
20 attorneys confirming this alleged settlement?

21 A. No. Not to my recollection, no.

22 Q. And as we talked before, when you had asked her
23 for a letter back in May of 2000 to set forth
24 Northland's proposal, she did, in fact, follow up
25 five days later with a proposal setting forth

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1 Northland's position? That was Exhibit #3; is
2 that correct?

3 A. That's correct.

4 Q. Did you expect something similar this time
5 confirming what you had talked about and setting
6 forth Northland's proposal?

7 A. Yes. Well, I expected, as I say, either a letter
8 or formal release or documents to dismiss the
9 case spelling everything out.

10 Q. All right.

11 A. I expected to receive something in that form, so
12 it could be reviewed.

13 Q. And it would have to be reviewed both by you from
14 a legal standpoint and also by Mr. Kirk from
15 whether he wanted to go through with it?

16 A. That's correct.

17 Q. Were you aware that on April 2nd, 2001, I sent
18 you a letter indicating that the Court had ruled
19 favorably to Lincoln General in the declaratory
20 judgment action with regard to its motion on
21 venue?

22 MR. LIPSIUS: Are you going to produce that
23 letter? If you're referring to it and if you are
24 asserting privilege, then it shouldn't be
25 addressed. If you're not asserting privilege or

1 waiving the privilege, it should be provided.

2 A. I could say I don't recall the letter. If that
3 makes it simple, I don't recall the letter.

4 BY MR. RUDD:

5 Q. Would you agree your notes don't indicate
6 anywhere anything about the Court's decision in
7 the declaratory judgment action as to the venue
8 issue?

9 A. That's correct. If I had received a piece of
10 paper and I had document, I didn't have to enter
11 it into the notes. The notes were just phone
12 conversations.

13 Q. So, somewhere probably in Lincoln General's file
14 would be, if I sent you a letter, would be the
15 letter and it would be stamped when it was
16 received?

17 A. Yes.

18 Q. Assuming, and I think we can produce the letter
19 later and counsel can proceed in that regard, but
20 assuming that there was a turn of events between
21 April 2nd, 2001 when you talked to Traci Slane
22 and said you would talk to your accounting
23 people -- which she said your accounting people;
24 you said Mr. Kirk -- and April 10th or 11th, is
25 it possible that Lincoln General might have

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1 changed its position because of the result in the
2 Court proceeding?

3 MR. LIPSIUS: Object. It's speculation,
4 unless he knows something definitely.

5 A. I can't say. Anything is possible.

6 BY MR. RUDD:

7 Q. Did you believe that Lincoln General, and
8 specifically Mr. Kirk, was free to change his
9 view on Northland's proposal at any time prior to
10 when he signed that release?

11 MR. LIPSIUS: Objection. That's a conclusion
12 of law. You can answer the question, but you're
13 asking the witness to have a conclusion of law.

14 MR. RUDD: I'm asking, did he believe at the
15 time he was talking to Ms. Slane that Mr. Kirk
16 was still free to change his mind on whether to
17 agree to the proposals to settle the case.

18 MR. LIPSIUS: Same objection. It's a
19 question of law, but he can answer the question.

20 A. My understanding was, with this as in any matter,
21 that we had -- I don't know if it's the right
22 term or not -- an agreement in principle, but
23 that until the parties had executed a release
24 that spelled out all of their rights, their
25 responsibilities, their duties, et cetera, that

1 the settlement wasn't finalized; that when you
2 reach an agreement in principle such as that,
3 that when you receive a document in good faith,
4 it encompasses the things that you envisioned the
5 document would have encompassed, et cetera, and
6 that you review it in that light, and you don't
7 throw in things from left field; and whatever the
8 document says, you either sign it, or if you say
9 there's some misunderstanding here, then you
10 don't sign it.

11 BY MR. RUDD:

12 Q. And you agree with me, Mr. McGovern, that based
13 on your notes, based on Ms. Slane's notes, there
14 was no detailed discussion about all the terms
15 you would normally find in a settlement
16 agreement; is that correct?

17 A. That is correct. It was just a general, you
18 know, where everybody was kind of interested in
19 putting this behind them; send me something to
20 look it and maybe we can make it go away.

21 Q. Is one of the reasons you have a confirming
22 letter or you have some document that
23 memorializes the agreement is so that there's no
24 confusion regarding what was discussed orally
25 between all the people involved in the settlement

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1 process?

2 A. That's correct.

3 Q. And Mr. Kirk hasn't been deposed yet, but is it
4 possible that there was some confusion in your
5 conversations with Mr. Kirk such that maybe the
6 two of you have different recollections of what
7 was said?

8 A. I guess it's possible.

9 Q. Is it fair to say that you wouldn't know a
10 hundred percent whether Mr. Kirk was on the same
11 page as you and had the same beliefs and views as
12 you until he actually signed the document setting
13 forth whatever Northland proposed?

14 A. That would be generally correct, yes.

15 Q. And at this point, you were obviously counsel to
16 Lincoln General. Did you view your relationship
17 like any outside counsel who goes back to the
18 client and gets them to sign a document to make
19 sure that the client has agreed with what the
20 attorney might have communicated?

21 A. Exactly.

22 Q. And did you convey that to Ms. Slane that you did
23 not have final authority to make any decisions
24 whether to just drop the declaratory judgment
25 case?

1 A. I'm not exactly sure what I said to Ms. Slane,
2 except that we were interested in walking away,
3 you know, everybody just go home and would she
4 send me some sort of document to review.

5 Q. Do you recall why there would have been a change
6 in your analysis or view of the case such that
7 you personally would have changed your views on
8 this case, where before you communicated to Ms.
9 Slane that you had a very good case -- and I
10 think you said that before in this deposition,
11 that you thought you had a very good case -- to
12 the point where now you would be proposing to
13 simply walk away from the case?

14 A. Well, let me say that I always thought that
15 Lincoln had a good chance of prevailing in this
16 matter. My comments to Ms. Slane would have been
17 obviously more strongly worded than that, because
18 you don't show weakness at that point.

19 Above and beyond that, to the best of my
20 recollections, the considerations involved were
21 the expense and time of this litigation and
22 whether we were going to end up co-primary in any
23 event, and I don't recall what else would have
24 been.

25 Q. So, there were some economic considerations about

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1 the costs of this litigation. Would they be
2 primarily Mr. Kirk's concern or would they be
3 your concern as an attorney?

4 A. They would be my concern in the sense that I
5 would have to convey to Mr. Kirk what I thought
6 the economic costs of pursuing this would be to
7 the company, and then he would make the decision.

8 Q. In terms of who instituted the thought of even
9 walking away from this, do you know if that is
10 something that you came up with on your own or
11 was that something that you believe came to you
12 from someone else?

13 A. I believe that's something I went and proposed to
14 Mr. Kirk myself. I can't recall for sure, but
15 that's my belief.

16 Q. So, you don't think it came from Mr. Kirk down to
17 you in the first instance; it came from you up to
18 Mr. Kirk?

19 A. I believe so.

20 Q. And the considerations you were looking at were
21 not whether you would prevail on the merits, but
22 how much it would cost to get to that point?

23 A. Yes. I wanted to make sure we weren't looking at
24 a pirate victory here; that it would cost more
25 than what we could recover, or it would cost

1 almost what we could recover, and that we would
2 be spending all this time, et cetera, at it.

3 Q. But ultimately it was Mr. Kirk's decision whether
4 he wanted to spend the funds to pursue a recovery
5 of the money you paid out?

6 A. That's correct.

7 Q. Now, your notes don't indicate after April 2,
8 2001, that you did talk to anybody in accounting
9 or Mr. Kirk; is that correct?

10 A. That's correct.

11 Q. Is it possible that you were waiting to talk to
12 Mr. Kirk until you got the document that you
13 thought Ms. Slane was sending to you?

14 A. That would be normal, yes.

15 Q. So, you're not testifying that between April 2,
16 2001 and April 10, 2001 when you left the message
17 for Traci Slane, that you had talked to Mr. Kirk
18 and he had gotten back to you on his position?

19 A. I had talked to Mr. Kirk before approaching Ms.
20 Slane with this general let's walk away, and my
21 recollection is he said, Contact them; see what
22 they want to do; see if we can get some releases.

23 I had spoken to her. I probably went back
24 and said, I have spoken to her; they are
25 generally in agreement to, and then I would have

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1 just waited.

2 Q. So, is it possible that the message you left on
3 April 10th for Ms. Slane was asking her what was
4 the status of her getting you the documents?

5 A. That is possible. I don't recall what it was.

6 Q. It could be anything?

7 A. It could be anything.

8 Q. You have no further entries of conversations with
9 her?

10 A. No.

11 Q. She has no further entries of conversations with
12 you?

13 A. No.

14 Q. So, as far as you were concerned, when you left
15 Lincoln General, there had not been any formal
16 settlement of this claim; it was still
17 outstanding?

18 A. When the file left my hands, which would have
19 been sometime in early June of 2001, and it was
20 transferred, I think to Mr. Miller, at that point
21 it was my belief or understanding that the matter
22 wasn't settled, but that settlement papers were
23 being drawn, were going to be negotiated,
24 whatever, and that they would be forwarded and
25 reviewed and appropriate changes would be made

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1 and sent back.

2 I don't know what happened after it left my
3 hands in early June of 2001.

4 Q. There are entries in Ms. Slane's log about
5 conversations she had with Mr. Miller. You had
6 no further conversations with Mr. Miller after
7 you left Lincoln General?

8 A. No. Well, I had conversations with him, but not
9 about this matter.

10 Q. Not about this matter?

11 A. No.

12 MR. RUDD: I believe that's all the questions
13 I have. Thank you.

14 MR. LIPSIUS: I have a few questions for you.
15 Not many.

16 EXAMINATION

17 BY MR. LIPSIUS:

18 Q. As of April 10th, was the only item left to do
19 the exchange of releases and discontinuance, as
20 far as you understood?

21 A. Generally, yes.

22 Q. Next, you were not counsel of record in the
23 declaratory judgment action; is that correct?

24 A. That's correct.

25 Q. Mr. Rudd's firm was counsel of record; is that

Exam./Lipsius - McGovern

81

1 correct?

2 A. That's correct.

3 Q. And you were speaking to Ms. Slane not as counsel
4 on the declaratory judgment action; correct? You
5 were not speaking to Ms. Slane as counsel in the
6 declaratory judgment action; is that correct?

7 A. That's correct.

8 Q. And you were not speaking to Ms. Slane as counsel
9 in the underlaying tort claims; is that correct?

10 A. That's correct.

11 Q. Did you consider yourself counsel in this case,
12 in any of the cases?

13 I mean, you are an attorney, of course. I
14 understand. But you understand the difference
15 between being an attorney working for an
16 insurance company negotiating settlements or
17 doing some work and being counsel?

18 A. That's correct. No, I was not counsel.

19 Q. Now, if you were counsel for Lincoln General,
20 would it have been appropriate to be speaking to
21 Ms. Slane if Northland was represented by
22 counsel?

23 A. Probably not. No.

24 Q. And you knew Northland was represented by,
25 whether it be our firm, some firm in the

Exam./Lipsius - McGovern

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1 declaratory judgment; is that correct?

2 A. Correct.

3 Q. So, you were speaking as an employee or
4 representative of Lincoln General to Ms. Slane,
5 similar to her role as a claims supervisor?

6 A. That's correct.

7 Q. Now, in the issue of the arbitration discussions
8 that had taken place a few years earlier which
9 were brought up, in that instance, though there
10 was an agreement in principle to arbitrate, what
11 was going to be arbitrated was never agreed upon;
12 is that correct?

13 A. That's correct. The scope of the arbitration.
14 We agreed on some issues and then some issues we
15 didn't agree on.

16 Q. Okay. So, there was never an agreement of what
17 was going to be arbitrated.

18 In this instance, the only thing left to do
19 was get the appropriate documents exchanged;
20 correct?

21 A. Well, it was to get the documents, review them,
22 and make sure they were appropriate. Yes.

23 Q. And in your mind, on April 2nd, you had had Mr.
24 Kirk's authority to get this matter settled on a
25 walk-away basis; correct?

Exam./Lipsius - McGovern

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1 A. I had Mr. Kirk's authority to request the
2 documents for us to review, and if the documents
3 were appropriate, it was my understanding that
4 everybody would walk away, yes.

5 Q. What did you expect to be contained in those
6 documents?

7 A. What did I expect to be contained in-- I
8 expected that it would be a mutual release, that
9 everyone would assume liability for their own
10 legal fees, for their Court costs, et cetera, et
11 cetera. They would waive all rights they had
12 against the other party, and that that would end
13 the matter and they would file the appropriate
14 documents with the Court to discontinue the
15 action.

16 Q. So, mutual general releases with each side
17 assuming its own costs and expenses; is that
18 correct?

19 A. Generally, yes.

20 Q. And that's something you've done before?

21 A. Yes.

22 Q. That's something that's done all the time in
23 settling personal injury claims; correct?

24 A. Correct.

25 Q. It would be similar to settling any other

Exam./Lipsius - McGovern

84

1 personal injury claim of getting mutual releases
2 and discontinuing the action; correct?

3 A. Technically, I'm not sure it's the same as a
4 personal injury claim, but the process is the
5 same, yes.

6 Q. Were you involved in settling personal injury
7 cases over your tenure at--

8 A. Yes.

9 Q. And generally if you agreed to pay a certain
10 amount of money in settlement of a personal
11 injury claim, subject to mutual releases and a
12 discontinuance, was that something you considered
13 yourself bound to abide by?

14 A. If they executed the release.

15 Q. Right.

16 A. In a timely manner.

17 Q. I have one other question here for you, and you
18 may not be able to help me on it.

19 If you look at McGovern Exhibit #1, go to the
20 third page from the back.

21 A. Okay.

22 Q. And you will see the last entry is February 14th,
23 2000.

24 A. Yes.

25 Q. And the next entry is August 3rd, 2000. Is it

Exam./Lipsius - McGovern

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1 possible there's a page or two missing here?

2 A. It's possible. I don't recall what transpired in
3 the interim.

4 Q. Because I see in Ms. Slane's log, which is
5 Exhibit #2, there are numerous phone
6 conversations with you during that period, none
7 of which have entries. I was just wondering if
8 it's possible something is missing.

9 A. It's possible. It would depend on what our phone
10 conversations were about.

11 Q. So, you didn't enter all your phone
12 conversations?

13 A. I only entered any that I thought had any
14 substance at all. As I recall, there were--
15 This case started right after the accident in
16 1995, and it went on forever. A lot of the
17 problems involved were getting documentation from
18 the Clifford's attorney, and even more so getting
19 documentation from Cheryl Mulligan's attorney.

20 So, my recollection is there were long lulls
21 when almost nothing happened in this case, and I
22 would get phone calls from Ms. Slane, What's
23 happening? Well, nothing's happening on our end;
24 what's happening on your end? There's no reason
25 to put it down. Or from Mr. Pipa. He would call

Exam./Lipsius - McGovern

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1 me the same way.

2 Q. I assume you're like all of us, some days you are
3 better than others in keeping records of your
4 telephone conversations? Would that be fair to
5 say?

6 A. That would be very fair to say.

7 Q. There are some periods of time where I go--
8 Personally I could go months where I'm really
9 chintzy in keeping my records and other times I'm
10 very specific on it. Is that fair to say that
11 you work that way?

12 A. I try not to go months, but there are periods of
13 time when I go, yes.

14 Q. So, it's possible that not all phone
15 conversations are in here; correct?

16 A. It's possible.

17 MR. LIPSIUS: I would ask counsel to recheck
18 the records to see if there is a page missing,
19 and if there is, we'd appreciate it being
20 furnished. I don't want to burden Mr. McGovern,
21 and I will try not to have to recall him, but if,
22 in fact, there is a page missing that is at all
23 critical toward these issues in this case, I will
24 subject him to recall at that time, just because
25 of the gap there. That is a time that seems like

Exam./Lipsius - McGovern

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1 it had a lot of activity.

2 MR. RUDD: We will check again. I mean, this
3 is what I got, but I will check with the client
4 again to see if they have something else.

5 MR. LIPSIUS: I understand that's what you
6 have. I just wanted to leave it on the record
7 that we may need to have you again, and I will
8 try very hard not to, but I don't think that's
9 going to impact here.

10 A. Can I put something on the record then?

11 MR. LIPSIUS: Sure.

12 A. I'll be glad to cooperate and work with you
13 gentlemen if you need me again. That's not a
14 problem. I just got dumped in my lap yesterday,
15 I'm going to be doing a two and a half to three
16 and a half week federal trial through most of the
17 month of March in Williamsport. So, if you need
18 me, I would appreciate it if you could do it--

19 MR. LIPSIUS: Sooner, rather than later?

20 A. If you can't do it by the middle of February,
21 postpone it until the end of March, beginning of
22 April because I've got my own issues at that
23 point in time.

24 MR. LIPSIUS: Okay. And I have no further
25 questions.

Exam./Rudd - McGovern

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1 EXAMINATION

2 BY MR. RUDD:

3 Q. I want to clarify a couple of things. We are
4 going to have a lot of different versions of what
5 you said when we go over your transcript and
6 argue this before the Judge.

7 But in terms of what needed to be done after
8 either April 2nd or April 10th, you said you
9 needed to exchange releases and execute them;
10 right?

11 A. Yes.

12 Q. Part of that process of what needed to be done
13 was Mr. Kirk had to approve that release as
14 proposed by Northland; is that right?

15 A. He had to sign it, yes.

16 Q. He had to approve it, too?

17 A. Yes.

18 Q. In terms of the terms that you expected when you
19 went through those with Mr. Lipsius, none of
20 those terms were communicated to Ms. Slane; is
21 that correct?

22 A. My recollection of my conversation with Ms. Slane
23 is simply that I said, We're generally interested
24 in walking away from this. Are you? And her
25 response in the end was yes.

Exam./Rudd - McGovern

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1 And I said, Draw up the documents, draw up
2 the papers, send me a letter, whatever, so that I
3 have something concrete that I can review with my
4 client, and if we have any questions, we will get
5 back to you.

6 Q. Okay. That answered it.

7 You didn't convey your expectations? I mean,
8 internally, as a lawyer, you have certain
9 expectations that you wanted to make sure that
10 she put down in the agreement?

11 A. Yeah. I wanted to make sure that-- My goal was
12 to make sure that when the releases were signed,
13 everything was done and we wouldn't be litigating
14 this matter like you guys are now.

15 That was why I wanted everything in writing.
16 That's why I always insisted on everything in
17 writing. It just makes it simpler in the end.

18 Q. Now, you had also discussed about execution of
19 releases in a timely manner. You put the timely
20 in there.

21 Was it your understanding that if Northland
22 was willing to still go forward with this, they
23 would send you mutual releases within the next--
24 Well, let me ask you: What period of time did
25 you expect these documents to be sent?

1 A. I don't know that I had an expectation of any
2 specific period of time. I generally would have
3 worked under the assumption that I would have
4 received them within 30 to 60 days, and that in
5 the interim, other than doing things that might
6 be absolutely required by the Court because of
7 deadlines, that litigation on the matter stops
8 because you don't want to incur any more
9 expense. Everybody goes sort of on cruise
10 control, and if necessary, informs the Judge,
11 hey, can we get a little extension of time here;
12 we are nearing a settlement, whatever.

13 And, as I say, I would say I usually expect
14 it within 30 days, and if it took 60 because it
15 was an incredibly complicated matter or one of
16 the other attorneys was in trial -- being an
17 attorney myself, I can understand that there are
18 fires that need to be put out, and if this matter
19 is going to be settled, it's not really a fire,
20 so it may take longer.

21 Q. But in terms of-- Let me break down some of your
22 answers and ask you questions.

23 Number one, as a litigator, has it been your
24 practice that if you do have a case that's
25 settled that's pending before a Court, you notify

Exam./Rudd - McGovern

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1 the Court right away of the settlement?

2 A. That depends on--

3 Q. Federal Court, at least?

4 A. Even in a Federal Court, with me, that depends on
5 where you are at in the matter. If there are no
6 Court deadlines for 90 days down the road and you
7 think you are going to have the documents in 30
8 days, so if something goes wrong, you still have
9 lots of time to do what you're going to do, then
10 I personally don't notify the Court, because just
11 in my experience, once you have told the Court
12 that you may have reached a settlement, whatever,
13 then the Court latches onto that and just keeps
14 beating you up to settle, even though you may
15 find that you can't.

16 I mean, there are just too many variables to
17 say what I would do in any given case.

18 Q. Once you have reached a final settlement, though,
19 you do at some point notify the Court; is that
20 correct?

21 A. Once you've executed the documents, certainly,
22 you let them know right away.

23 Q. The record will speak for itself, but obviously,
24 there were no documents sent within 30 or 60
25 days, or within 180 days. Would that affect your

1 view on whether this was a timely sending of a
2 release? The release has never been proposed to
3 today.

4 A. Well, let me say that this file passed out of my
5 hands sometime in May, so I don't know what
6 happened after that. But I would certainly think
7 that, as I say, 30 to 60 days is a generous
8 amount of time, and if no documents have been
9 sent in that amount of time, again, 180 days,
10 whatever, I would think there was a serious
11 question as to whether or not there was any
12 activity, you know, as to whether the matter was
13 still settled in principle or not.

14 Depends on what the parties-- My
15 understanding as an attorney, it also depends on
16 what the parties are doing in the interim, that
17 you can-- If I make an offer, it's basic
18 contract law. You can orally accept the offer
19 and comply with the terms; in this case that
20 being supplying a release. You can reject the
21 offer by saying no, or you can reject the offer
22 by doing something that is contrary -- that would
23 be generally accepted as contrary to the party's
24 understanding as how you would act if there had
25 been an acceptance of the offer.

Exam./Rudd - McGovern

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1 Q. So, it would be fair to say it would be contrary
2 to your understanding of what you discussed with
3 Ms. Slane if they did not send proposed mutual
4 releases within 30 to 60 days?

5 A. That would be fair to say.

6 Q. From your standpoint did you feel that Northland
7 had the right to not go through with a settlement
8 and not send you mutual releases?

9 A. Yes.

10 Q. So, it's your feeling that Northland wasn't bound
11 to walk away with this; and that if Ms. Slane
12 went back to somebody and they decided, no, we
13 don't want to walk away with it, they were free
14 to drop the issue and go ahead with their
15 declaratory judgment action?

16 A. Before something was signed, yes.

17 MR. RUDD: That's all I have.

18 EXAMINATION

19 BY MR. LIPSIUS:

20 Q. Is that last comment a legal conclusion of yours?

21 A. That was a legal conclusion of mine. I thought
22 he was asking me a legal question, so I guess
23 that is objectionable.

24 It's also my personal feeling, based on my
25 experience as an attorney, which I guess colors

Exam./Rudd - McGovern

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1 everything.

2 EXAMINATION

3 BY MR. RUDD:

4 Q. Now, I want to clarify that, because you were
5 involved as a lawyer and as an individual.

6 Your personal view, is there any reason that
7 your personal view, that Northland would be able
8 to walk away from this and continue with the
9 action, would not be accurate in this case where
10 you were dealing with Ms. Slane? Was there
11 anything said by either of you which would change
12 that general personal view of yours?

13 A. No.

14 MR. RUDD: That's all I have.

15 EXAMINATION

16 BY MR. LIPSIUS:

17 Q. Do you know of any of the facts that transpired
18 after you left the company?

19 A. No.

20 Q. So, you would not know if there was any other
21 extenuating events or discussion as to the
22 settlement?

23 A. I have no idea. As I say, when I left the
24 company, I expected that they were going to be
25 receiving documents soon. And when you called me

Exam./Lipsius - McGovern

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1 was the first I knew that that hadn't happened.

2 Q. So, there could have been extenuating events that
3 you were not aware of that would mean that
4 Northland had not abandoned the settlement;
5 correct? There could have been?

6 A. There could have been. Certainly, yes.

7 Q. You just don't know?

8 A. I don't have any idea.

9 MR. LIPSIUS: Thank you. No further
10 questions.

11 MR. RUDD: I'm done.

12 (The deposition concluded at 12:30 p.m.)
13
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25

COMMONWEALTH OF PENNSYLVANIA)
) ss.
 COUNTY OF LANCASTER)

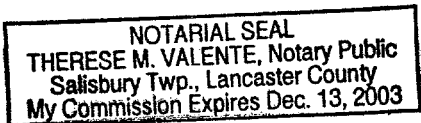
I, Therese M. Valente, Reporter and Notary Public in and for the Commonwealth of Pennsylvania and County of Lancaster, do hereby certify that the foregoing deposition was taken before me at the time and place hereinbefore set forth, and that it is the testimony of:

MICHAEL J. McGOVERN, ESQ.

I further certify that said witness was by me duly sworn to testify the whole and complete truth in said cause; that the testimony then given was reported by me stenographically, and subsequently transcribed under my direction and supervision; and that the foregoing is a full, true and correct transcript of my original shorthand notes.

I further certify that I am not counsel for or related to any of the parties to the foregoing cause, or employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

Dated at Gap, Pennsylvania this 17th day of January, 2002.



Therese M. Valente

Therese M. Valente
 Reporter - Notary Public

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)

LAWYER'S NOTES

[illegible]

01/04/2002 10:01 FAX 1172010000

RECEIVED NOTICE & NOTICE

01/04/010

ACTIVITY LOG SHEET

CLAIM NO: 39737		POLICYHOLDER: JHM ENTERPRISES		ADJUSTER:
DATE	INITIALS	NOTES		
11/17/01	RD	SET UP AC FEATURE FOR \$10,000 FOR 15 AD FEATURE FOR \$10,000 FOR 9 AL FEATURE FOR \$50,000 FOR 9 AL FEATURE FOR \$50,000 FOR 9		
11/21	MJM	Call Gary McCormick 717-323-3148		
11/22	MJM	Call Gary McCormick - leave message 12:57 pm Return call to Jerry Parker - Northland Ins. 800-328-5972 left voice mail message 9:46 am at 4191		
		Call from Jerry Parker - they insure Woodlawn Brass Trucks - Northland Ins Co. PO Box 64816 St Paul MN 551164		
		New Claim # T F 209197 They have a \$2 million single limit - Truck and Trailer is not on their policy. Doesn't know if they have filings		
12/05	MJM	Return call to R. Scott Dennis - Progressive Ins. 1717 455-9000 - Their Claim # 950633912 left message 1:15 pm		
12/06	MJM	Call from Scott Dennis - he has UIM. Call Jerry Parker - Northland Return call to Scott at Progressive 717-394- 4780		
01/04	MJM			
07/23	MJM			

CLAIM NO.	POLICYHOLDER	ADJUSTER
DATE	INITIALS	NOTES
12/17/40	KMM	file review. OK on reserve (discussed coverage issue w/ ASK - understand its a policy limits case if we lose dispute w/ Northland).
10/20/98	MTM	Call from Buck Township insurer
05/10/98	MM	
07/15/98	MM	

01/04/2002 16:02 FAX 11/2575300

MCNEES WALLACE & NURICK

42006/010

ACTIVITY LOG SHEET

[illegible]

01/04/2002 16:02 FAA 11/23/0000

MENEES WALLACE & NUPICK

007/010

ACTIVITY LOG SHEET

CLAIM NO:		POLICYHOLDER:		ADJUSTER:
FEATURES	DATE	INITIALS	NOTES	
	10/15	GG		
	10/29	GG		
	11/10/99	GG		
	12/21	GG		
	12/23	GG		
	10/10/97	GG		

01/04/2002 18:02 FAA 71123/5300

MCNEES WALLACE & NURICK
ACTIVITY LOG SHEET

0008/010

CLAIM NO.		POLICYHOLDER	DATE	INITIALS	NOTES
			01/11	AMM	
			01/14	AMM	
			00		
			01/27	AMM	
			00		
			02/02	AMM	Round table - File Dec Action 11
			00		
			02/05	AMM	
			00		
			02/11	AMM	
			00		
			02/14	AMM	
			00		

call Northland. see if they want
to just call it quits. Call Tracy & leave
a message

01/04/2002 16:03 FAA 112515300

MONEES WALLACE & NUPICK

01010/010

CLAIM NO.

POLICYHOLDER

ADJUSTER

INITIALS

DATE

TOTALS

NOTE

03/12

Return call to Tracy Stone left
message

04/02

Call from Tracy Stone agreed we
would both pull the plug

04/10

call Tracy Stone left message

Report No. DAR030
(CXDM001/CXDM003)

NORTHLAND INSURANCE COMPANIES
CLAIM FILE NOTES
Printed: TSLANE

Page 1
Date 12/05/01

Policy.: 21 TF209197 000002

Print all claim file notes entered

Date:11/20/1995 Entered By: GCRECELI Subject:GN

I STARTED THIS LOSS LATE FRI THE 17TH. FOR JERRY TOMORROW. (OUT OF OFFICE). I SPOKE WITH THE DRIVER. GOOD IMPRESSION: UPSET AND CONCERNED. CLEAR LIAB: UNABLE TO GET STOPPED FOR A QUICK LIGHT AND REAR-ENDED OV1 INTO OV2. OV2 SAID NOT HURT. 2 WOMEN IN OV1 HURT--- BOTH FATALY? I ALSO DISCUSSED AT LENGTH WITH LESSOR AND N. INSD. LESSOR HAS HIS OWN INSURANCE AND THE LOAD DRIVER WAS AFTER NOT INSD LOAD. THERE IS A PERMANENT LEASE, HOWEVER. SEE NOTES.

Date:11/27/1995 Entered By: JPARKER Subject:GN

see file for full details. appears as our policy stands, we have no coverage. (symbol 43, and tractor and trailer not owned.) agent now saying he should have written on a symbol 47, but it was not written on that basis. the vehicle had just delivered a load for the insure d and was dispatched to get another load not in the insd business. owner has 750,000 plicy of his own.

Date:11/27/1995 Entered By: JPARKER Subject:DI

Set diary of 12/27/95 - initial report due

Date:12/11/1995 Entered By: JPARKER Subject:RS

Set initial reserve for \$ 500.00 for claimant #005
... CLIFFORD, ROBERT CVG: C.S.L. Liability (B.I. & P.D.)

Date:12/11/1995 Entered By: JPARKER Subject:RS

Set initial reserve for \$ 500.00 for claimant #006
... MULLIGAN, CHERYL CVG: C.S.L. Liability (B.I. & P.D.)

Date:12/11/1995 Entered By: JPARKER Subject:RS

Set initial reserve for \$ 3000.00 for claimant #004
... MULLIGAN, CHERYL CVG: C.S.L. Liability (B.I. & P.D.)

Date:12/11/1995 Entered By: JPARKER Subject:RS

Set initial reserve for \$ 123000.00 for claimant #002
... CLIFFORD, ROBERT CVG: C.S.L. Liability (B.I. & P.D.)

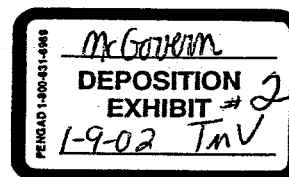
Date:12/11/1995 Entered By: JPARKER Subject:RS

Set initial reserve for \$ 123000.00 for claimant #003
... CLIFFORD, KAREN CVG: C.S.L. Liability (B.I. & P.D.)

Date:12/11/1995 Entered By: JPARKER Subject:RC

Completed...C/A Large Claim Report - Liab

Page 1



000002

Report No. DAR030
(CXDM001/CXDM003)

NORTHLAND INSURANCE COMPANIES
CLAIM FILE NOTES
Printed: TSLANE

Page 2
Date 12/05/01

Policy: 21 TF209197 000002 Print all claim file notes entered

Date:12/13/1995 Entered By: GCRECELI Subject:GN #

BEGIN OVERRIDE: OWNED AUTO POLICY. TRUCK DRIVER JUST COMPLETED A
LEASE TRIP FOR INSD.--GOING AFTER LOAD FOR LESSOR. CORRECTED LEASE
SENT.

Date:12/27/1995 Entered By: JPARKER Subject:GN

letter of rep recd from atty, i have explained our position and have
had no response to date. still waiting on policy to copy, underwrit
ing working on it . i have requested from marianne k.

Date:12/27/1995 Entered By: JPARKER Subject:DI

Set diary of 01/26/96 - policy exchanged with lincoln general

Date: 1/29/1996 Entered By: JPARKER Subject:GN

i have advised atty we feel insured not involved in this. no respons
e to date.

Date: 2/27/1996 Entered By: JPARKER Subject:GN

still no activity to speak of, lincoln general has advised that they
disagree with our decision. i have had no response from the atty rep
he deceased yet.

Date: 2/27/1996 Entered By: JPARKER Subject:DI

Set diary of 03/11/96 -
update reinsurers

Date: 3/19/1996 Entered By: JPARKER Subject:DI

Set diary of 04/18/96 -
update reinsurers 5-96

Date: 4/11/1996 Entered By: JPARKER Subject:GN

tto agent, suit recd today, he is going to fax it to me

Date: 4/11/1996 Entered By: JPARKER Subject:DI

Set diary of 04/12/96 -
update reinsurers 5-96

Date: 4/12/1996 Entered By: JPARKER Subject:DI

Set diary of 04/15/96 - suit recd?
update reinsurers 5-96

Report No. DAR030
CXDM001/CXDM003)

NORTHLAND INSURANCE COMPANIES
CLAIM FILE NOTES
Printed: TSLANE

Page 3
Date 12/05/01

Policy.: 21 TF209197 000002 Print all claim file notes entered

Date: 4/15/1996 Entered By: JPARKER Subject:GN #

Message to: JPARKER Message from: GCRECELI
LET'S JUST SEND A SIMPLE LETTER ACKNOWLEDGING RECEIPT OF SUIT, GIVIN
THEM LOU'S NAME, AND SAYING THAT ALL COVERAGE DEFENSES PREVIOUSLY
LISTED REMAIN, AND WE WILL ADVISE THEM FURTHER AFTER REVIEWING
COMPLAINT.

*
GAIL, I TTO LOU BRICKLIN. HE SAID IT IS POSSIBLE TO FILE A LAWSUIT
WITH JUST A SUMMONS. HOWEVER THEY CANNOT DEFAULT WITH OUT A COMPLAIN
HE WAS GOING TO GO AHEAD AND FORCE PLAINTIFF TO FILE A COMPLAINT AND
I WILL GIVE TO YOU WHEN RECD. SHOULD I HOLD OFF ON RES OF RIGHTS UNT
WE SEE THE ALLEGATIONS, OR SIMPLY REITERATE MY EARLIER ONE?

Date: 5/29/1996 Entered By: JPARKER Subject:GN

waiting on plaintiff to file petition, once that recd, we can better
analyze coverage position.

Date: 6/25/1996 Entered By: JPARKER Subject:GN

petition filed , see file for full review of same.

Date: 7/23/1996 Entered By: JPARKER Subject:GN

see file for full details. counsel for jhm has joined 3 addl parties
in allegation that traffic light was bad. will diary 30 days and do
follow up review with m.d., g.c. and l.c. as there have been some
developments. waiting on ira's thoughts on d.j. and also for
everyone to return from vacation.

Date: 8/30/1996 Entered By: JPARKER Subject:DI

Set diary of 09/30/96 - review with larry colburn

Date:11/08/1996 Entered By: JPARKER Subject:GN

i tto lou bricklin, he has not tto ira yet, will do so and get me
his opinion soon. called insured and updated.

Date:12/11/1996 Entered By: JPARKER Subject:GN

Date: 1/13/1997 Entered By: JPARKER Subject:DI

Set diary of 01/20/97 - FEEDBACK FROM IRA AND BRICKLIN

Date: 2/05/1997 Entered By: JPARKER Subject:GN

REQUESTED EVAL FROM BRICKLIN AND IRA L.

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Date: 4/10/1997 Entered By: JPARKER Subject:DI #

Set diary of 06/09/97 -

DEPO SUMMARIES

Date: 5/12/1997 Entered By: JPARKER Subject:GN

recd eval from counsel, they rec we take some depos and then move for summary judgment. i okayed that, but one delay is that statts the driver has ongoing criminal charges pending and cannot testify until that is resolved. they do expect it may be worked out shortly

Date:10/13/1997 Entered By: JPARKER Subject:GN

statts has now worked out plea, so depos to go forward shortly, as soon as we rec. that, lou bricklin will give me his eval. i will update following that

Date:10/29/1997 Entered By: JPARKER Subject:DI

Set diary of 11/05/97 -

DEPO SUMMARIES

Date:10/29/1997 Entered By: JPARKER Subject:GN

EF COUNSEL MET WITH INSD, THEY NOW ADMIT TO ALTERING THE LEASE AFTER THE ACCIDENT, OUR EXPOSURE GREATLY INCREASED HERE.

Date:11/12/1997 Entered By: JPARKER Subject:GN

REVIEWED WITH MD AND GC, I WILL REVIEW DEPOS, AND LIKELY PROCEED WITH MSJ ON AGENCY. WILL REVIEW COUNSEL'S EVAL ON DAMAGES

Date:11/19/1997 Entered By: JPARKER Subject:GN

discussed with bob dols, i updated him on this and indicated to him we will be looking at the reserve as soon as eval. recd from counsel i will let him know what we decide to do.

Date: 2/06/1998 Entered By: JPARKER Subject:GN

RECD EVAL. FROM LOU BRICKLIN, HE PUTS VALUE AT 750-900 WITHOUT REGARD TO ANY PUUNITIVE DAMAGES. NO DEMAND FROM PLAINTIFF YET.

Date: 2/17/1998 Entered By: JPARKER Subject:DI

Set diary of 03/19/98 - COUNSEL REPORT, REVIEW RESERVE

Date: 7/02/1998 Entered By: JPARKER Subject:GN

PLAINTIFF NOW INDICATES HE WOULD LIKELY TAKE 2 MILLION TO SETTLE ALL

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CLAIMS. WE WILL HAVE TO WAIT FOR LINCOLN TO TENDER THEIR POLICY, AND
THEN SEE IF WE CAN GET A SUITABLE POT TOGETHER WITH ALL DEF. AND
GET THESE SETTLED

Date: 2/09/1999 Entered By: JPARKER Subject:GN

lincoln wants us to split any offer on a pro-rata basis, and then
arbitrate or litigate the coverage issue. i have refused, as we
clearly have coverage excess to theirs. i have asked several times
for them to justify their position, but they will not. in fact their
counsel told lou bricklin, he agreed with our position, i have
indicated we will wait until they have exhausted their 750,000.

Date: 4/28/1999 Entered By: JPARKER Subject:DI

Set diary of 05/28/99 - ira's rec.
UPDATE INSD

Date:11/01/1999 Entered By: TSLANE Subject:GN

reviewed file
1030am called counsel, lou--lmtc

Date:11/01/1999 Entered By: TSLANE Subject:GN

110am ret counsel call, lou 215-665-3400 -- lmtc

Date:11/01/1999 Entered By: TSLANE Subject:GN

240pm ret counsel call, lou-lmtc on pm

Date:11/01/1999 Entered By: TSLANE Subject:GN

340pm counsel called, lou -
he just sent ltr out over the weekend
have been asking lincoln to tender their limits for quite some time
law is clear that they should go first but lincoln has refused & wil
l not tell us why
pltf atny is moving to get the case set for trial-should get trial
date in the next couple months.
we have sent them our legal reasoning -lincoln atny is telling us
that he agrees w/us but cannot get lincoln to commit
said he has just dictated on the damages issues
he is going to round table w/3-4 of the senior atny to get # on this
but he feels that case worth around 900-1.25 mil but wants to get
some input
has also asked lincoln counsel to give us their eval of damages
he will get out to me the summary of the damages in couple days &
let me know once they roundtable
mulligan depo was taken yr ago & no one noticed us but there was 5
defendants there -- said there is nothing in file -- he got the
transcript of the depo & now has gotten demand of specials from

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mulligans atny -- from quick review he has done so far it appears that she might have had surg - needs to go through it more thoroughl y but thinks we might need an ime & do some more invest but will get that out w/ltr also
said his last conversation w/jp was to discuss that we prob need to get case resolved & not let the issue btwn us & lincoln allow the case to be tried & to get arrangement worked out w/lincoln & get case settled
said juries are all over the board on conscious pn & suff claims but usu bring big money
pltf formal demand 4mil but thinks settle for 2-3
not sure that his # would settle the case but he really does not see jury in that cty giving more than million for this case--both wd cas es together

Date:11/04/1999 Entered By: TSLANE Subject:GN

125pm called counsel, lou-
lm on pm - told him wanted to clarify for now we want to put pressur e on lincoln to tender their limits since we think they is prim not interested in 50/50 at the present time but if trial set & getti ng close then we may need to consider it but for rt now still feel very strongly that lincoln primary & they have not prov any proof to the contrary

Date:11/08/1999 Entered By: TSLANE Subject:GN #

called bob dols --
updated him on coverage & damages - indicated we would be bumping reserves - not happy thought lincoln gen had accepted prim cov & explained even if they had value of cases w/conscious pn & suffering that the values would exceed their cov
wants to know when we bump the reserves

Date:11/11/1999 Entered By: TSLANE Subject:GN

Message to: JPARKER Message from: TSLANE

Date:11/24/1999 Entered By: TSLANE Subject:GN

recd detail eval of case for settlement --see file for details
counsel has asked pipa if we should subpoena the school recs of the 6 kids to determine how long they actually lived w/the cliffords as that is not clear in the depos

Date:11/29/1999 Entered By: TSLANE Subject:GN

did reserve analysis - total increase of \$600,000
\$400,000 on wrongful death claims & \$200,000 on mulligan
sent ltr to reins & ga notifying of reserve increase
...recd fax from counsel -

case has been removed from trial calendar due to addtl discovery

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needed on mulligan case -- will not be recert for trial until case
ready to be tried

Date:11/29/1999 Entered By: TSLANE Subject:GN

140pm called counsel, lou-lmtc

Date:11/29/1999 Entered By: TSLANE Subject:RC

Completed...C/A Large Claim Report - Liab

Date:11/30/1999 Entered By: TSLANE Subject:GN

415PM RET COUNSEL CALL, MOIRA --

EVERYONE ORIGINALLY FELT MULLIGAN CLAIM WAS SMALL & NO ONE UPDATED
THEM & LET THEM KNOW THAT SHE HAD SURG

SHE HAS COMMITTEE W/2 OTHER ATNY IN OFFICE - HER CLAIM IS SUBJECTIVE
THEY THINK IT IS SIG CLAIM -- HAVE TALKED AMONGST THEMSELVES BUT
DO NOT HAVE PLTF EXP REPORT - THEY EXPECTED TO HAVE REPORT BY NOW
HAS SENT FU LTR ASKING FOR IT

UNCLEAR HOW THE VOC WILL EVAL HER CLAIM - PAST & FUTURE WL TO DATE
COULD BE 200-250K

MULLIGAN WAS VERY ACTIVE PRIOR TO THE AX - NOW SHE IS NOT
HAS TT PLTF ATNY RE: DEMAND BUT IS NOT AUTH TO MAKE DEMAND UNTIL
EXP REPORT IS IN BUT OFF THE RECORD SAID SOMETHING ABOUT 150K

SHE HAS LOST LOT OF TIME OVER LAST YR FROM WORK & NOT EVEN SURE WHERE
SHE IS WORKING AT THIS TIME

IF WE CANNOT SETTLE THEN NEED TO GET IME & POSS VOC REHAB TO REBUT
THE PLTF

GOING TO BE HARD FOR PLTF TO ARGUE SHE CAN WORK 35 HR BUT NOT 45 HRS
TOLD HER ONCE HAD EXP REPORT TO LET ME KNOW - WE HOPEFULLY WILL HAVE
DEMAND THEN & CAN DECIDE WHERE TO GO FROM THERE

Date:12/02/1999 Entered By: TSLANE Subject:GN

355pm called counsel, ira -- ext 202 -- lmtc on pm

Date:12/03/1999 Entered By: TSLANE Subject:GN

830am [REDACTED] --

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Date:12/14/1999 Entered By: TSLANE Subject:GN

recd fax from counsel - pltf atny for wd cases very anxious to settle -- pltf atny upset that trial has been postponed indef
he also mentioned delay damages-they are attainable 1 yr after suit filed & if no offer made w/in 25% of jury verdict then pltf can get delay damages & interest has been running at 8.25%
have new exp report on conscious pn & suffering - no new info

Date:12/14/1999 Entered By: TSLANE Subject:GN

850am called counsel, lou --
he did not get sense from pipa either way if they are willing to go first as pltf atny alluded to
he thinks that since lincoln general looking at these cases as 1.2-1.5 mill cases that they prob figure their money is gone esp given the mulligan case
told him i want commitment from lincoln as to what they are willing to do & see if they will tender their money & then we can decide if we want to add anything
told him i felt if we could get these cases settled for 1 mil or less we should & he said if that is poss then we should jump at it
said we have tried in past to get lincoln to put money on table but will see what happens now - they may be motivated to settle now esp given the fact their limits are gone
he will call pipa & let me know
said pltf atny still talking about the jury appeal & the brady bunch factor -- demand from pltf now 2 mil but if can get settled soon thinks he can get his clients to take sub less

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Date: 12/21/1999 Entered By: TSLANE Subject: GN #

210pm called counsel, lou-
has ltr coming out to me
has lm for pipa w/respect to settlement issue -- he wants to know if
northland will arb if the settlement does not exceed 1.5 mil
pipa responded w/they would put their 750 first if we agreed to arb
the primacy issue if the cases settle for less than 1.5 -- told him
we would agree to that bc i think moot issue
got voc exp report from atny kwak on mulligan -- is sending me copy
they project well over 1 mill dollars - there are 3 components --
wage loss for wage diff from 70 hrs to 40 hrs now -- over work life
exp & 2) if someone mildly disabled the stat show the work life exp
less -- she is going to work # of yrs less -- thinks it is 10 yrs
which is a large component
3) loss of value of household serv - does not maintain the house
anymore
comes up w/very large # -- will have to get our own econ to rebut
bc there are many areas to poke holes w/him
told him to go ahead & hire the econ on mulligan
he will call pipa asap & then get an offer on the table to pltf atny
to see if they can get this resolved

Date: 12/28/1999 Entered By: TSLANE Subject: GN

845am ret lou call -
e has traded messages w/pipa
they will agree to tender their 750k if we agree in writing to arb
if all claims settle under 1.5 mil & w/in 60 days of underlying
claims being resolved - agreed that was fine & he will get ltr out
getting calls every couple days from pltf atny so serious in settlin
g -- discussed proper starting point to get where we want to settle
the case at -- will think about it & once has generals 750k we will
begin the neg
he is thinking 800-850k opening offer

Date: 1/04/2000 Entered By: TSLANE Subject: GN

recd econ report on mulligan
econ projects long term loss of earning capacity btwn 665k & 978k
depending on diff assumptions
loss of household serv addtl valued at \$143k
there are many assumptions that we can take issue w/. ie that she
would have worked 54hrs/wk until she retired, etc
could also make argument that since she is around the house more the
re is no household serv claim

Date: 1/04/2000 Entered By: TSLANE Subject: GN

840am ret def counsel call, moira -- lmtc

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Date: 1/04/2000 Entered By: TSLANE Subject:GN #

925am def counsel called, moira -
THEY USU USE IRENE MENDOLSEN FOR THEIR ECON BUT IS GOING TO CK W/LOU
& THEN GET IT SET UP BC THEY HAD TALKED ABOUT GETTING ECON CLOSER TO
VENUE BUT IRENE IS VERY QUALIFIED
SHE WILL GET MOVING ON THAT & ALSO GET REQUESTS OUT TO UPDATE MEDS
SINCE PLTF ATNY NOT COOPERATING OR GETTING US DEMAND
TOLD HER I FELT WE HAD TO MOVE AHEAD AS THOUGH WE ARE GOING TO TRY
IT BC PLTF ATNY IS NOT GOING TO GIVE REALISTIC DEMAND BASED ON THE
ECON. REPORT HE PROD

Date: 1/05/2000 Entered By: TSLANE Subject:GN

counsel called, moira -- lm on pm
using jason walker as voc rehab exp & comes highly recom
also getting ime set up - william tribola & has used him b4
does not feel we can rely on pltf atny re: mulligan residuals

Date: 1/05/2000 Entered By: TSLANE Subject:GN

1110am ret counsel call, moira -
we have lincoln's 750k -- we have the auth to neg now so thought we
should get offer out
told her not comfortable making offer on mulligan yet - not enough
info
told her to go ahead & make offer 825k - both mulligan cases & they
can make the apportionment -- told them at some time i might call
the pltf atny directly but wanted them to make opening offer & see
what happens

Date: 1/13/2000 Entered By: TSLANE Subject:GN

recd cv on dr walker who is the voc exp for this case

Date: 1/13/2000 Entered By: TSLANE Subject:GN

she had faxed ltr whether northland is willing to agree to arb wheth
er its policy may be primary as opposed to concurrent or excess
indicates they cannot commit to change until have auth from us

Date: 1/13/2000 Entered By: TSLANE Subject:GN

1015am called counsel, moira -
told her i did not have a prob arb if we were primary as opposed to
concurrent or excess -- seemed like that was what we had agreed to
she will get ball rolling on that
got some new med bills from pltf on mulligan -- there is ltr from
short term disability carrier indicating it was her last ck bc the
dr had cert to rtw full time as rn
she is subpoenaing the meds on that bc that med report was not to
pltf voc rehab exp

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said after we get updated meds may want to consider redepositing pltf
to update status
=====

Date: 1/13/2000 Entered By: TSLANE Subject:GN

discussed w/jp --
do not want to arb that we are prim & lincoln is excess bc we have
2 mil dollar policy & if we get bad result then we would owe entire
loss & we know that lincoln is prim
will agree to arb whether we are concurrent or excess
will not arb primacy issue unless lincoln agrees they are prim
if they want to argue we are prim then file dec
ok to agree to resolve underlying case & litigate the cov issue
on prim but not arb
will not agree to arb primacy issue if lincoln does not agree they
are primary
=====

Date: 1/13/2000 Entered By: TSLANE Subject:GN

1040am called counsel, moira -- lmtc asap
=====

Date: 1/13/2000 Entered By: TSLANE Subject:GN

310pm ret counsel call, moira -
told her we will not arb the issue of northland being primary unless
lincoln agrees they are primary
if lincoln does not agree then we will agree to litigate the cov
issue once the underlying cases are resolved -- we want their 750k
tendered & if not then we will consider filing dj
lou is back from vacation & she will prob have him call me on this
tomorrow once she talks to him
=====

Date: 1/18/2000 Entered By: TSLANE Subject:GN

750am ret counsel call, lou-lmtc on pm
=====

Date: 1/24/2000 Entered By: TSLANE Subject:GN

1030am called counsel, lou-lmtc on pm
=====

Date: 1/24/2000 Entered By: TSLANE Subject:GN

210pm ret counsel call, lou-
conf call w/moira - has tt pipa - let him know what we wanted
wanted him to agree that we would not arb the primacy issue
said pipa said to call their people at lincoln general but lou said
jerry had tried that months ago
agreed that we wanted 750k tendered by lincoln general & if they
want to pursue that northland policy is primary we will only agree
to do that through litigation-dj but if they want to just discuss
issue of concurrent or excess cov then we will agree to arb w/in
0 days
=====

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he will discuss w/pipa & be in touch

=====

Date: 1/25/2000 Entered By: TSLANE Subject:GN

1125am called ira--lmtc on pm

Date: 1/31/2000 Entered By: TSLANE Subject:GN

took depo of dale clemons -- nothing in that depo chgs counsel
conclusion that statts was working for jhm at time of ax & that
jhm owes indem to insd

Date: 1/31/2000 Entered By: TSLANE Subject:GN

has gotten everything over to jasen walker to do voc assess on
pltf mulligan

Date: 1/31/2000 Entered By: TSLANE Subject:GN

recd more docs in response to prod of docs
some things missing & counsel has written asking for those
appears pltf disability carrier would no longer pay short term dis
benefits past 7/20/99 bc dr mendel cert her as capable of rtw full
time as rn -- do not have that report
counsel going to subpoena certain employ & med recs since getting
little cooperation from pltf atny

Date: 1/31/2000 Entered By: TSLANE Subject:GN

pltf mulligan recd short term dis from 7/4/97-11/30/97 & then was
released to rtw 12/1/97 so benefits suspended
recd total of \$7,741.54
then recd short term disability from 3/18/99-7/19/99
apparently her dr then rtw full time
recd total of \$6,219.71

Date: 1/31/2000 Entered By: TSLANE Subject:GN

Note: put Mulligan meds & other wl doc in sep expand file

Date: 2/04/2000 Entered By: TSLANE Subject:GN

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Date: 2/04/2000 Entered By: TSLANE Subject:GN

1240pm called counsel, lou-
tt moira --

pipa has never ret their calls - she is supposed to fu w/him today
they had lm on pipa voice mail detailing our position
he has met w.miller & almost positive he was deposed - said he does
not dispute that the trip was solely for the benefit of jhm & that
insd was not benefitting -- he agrees w/everything insd has said
will let me know when he hears from pipa

Date: 2/14/2000 Entered By: TSLANE Subject:GN

recd copy of the diary mulligan kept

Date: 2/14/2000 Entered By: TSLANE Subject:GN

mulligan voc eval ime sched for 3/3 -- sent ck for advance retainer

Date: 2/15/2000 Entered By: TSLANE Subject:GN

pltf mulligan sched for ime 3/1 -- need pre pay of \$650 - issued ck

Date: 2/23/2000 Entered By: PKESTNER Subject:GN

RECEIVED ATTY BILL, AUDITED BILL AND IN LINE, ISSUED DRAFT
//////

Date: 2/25/2000 Entered By: PKESTNER Subject:GN

spoke with counsel and the agreemenet with other carrier fell throug
h. lookslike we will have to file a dj to settle coverage dispute. u
pdated jerry and he will advise mike.
//////

Date: 2/25/2000 Entered By: PKESTNER Subject:DI

Set diary of 03/27/00 - await response

Date: 2/25/2000 Entered By: JPARKER Subject:GN

reviewed with MD, ok to proceed with DJ/

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Date: 2/29/2000 Entered By: PKESTNER Subject:GN

spoke with counsel and requested any depositions of jmh employees, she will send them. advised her of decision.

Date: 3/02/2000 Entered By: PKESTNER Subject:RS

Set initial reserve for \$ 10000.00 for claimant #007
... MULLIGAN, CHERYL CVG: C.S.L. LIABILITY (B.I. & P.D.)

Date: 3/02/2000 Entered By: PKESTNER Subject:GN

//////
Date: 4/18/2000 Entered By: TSLANE Subject:GN

1130am return counsel call, moira - lmtc

Date: 4/18/2000 Entered By: TSLANE Subject:GN

40pm counsel called, moira -
have vocational rehab report & coming to me on mulligan
discovery closing next Friday & thinks everything done
plaintiff attorney anxious to list this for trial
there will be conference & pick trial date - could have trial date as early as June
said it did not appear that discovery has been filed - said we need to get discovery filed as soon as possible because do not want to try the case
said maybe by filing discovery Lincoln will do something
told her I would follow up with counsel
vocational rehab report on its way - told her I would touch base once received that
report says plaintiff can do sedentary work which is readily available
told her would follow up & let her know what we wanted to do

Date: 4/18/2000 Entered By: TSLANE Subject:GN

345pm called ira -- ext 202 -- lmtc on pm

Date: 4/19/2000 Entered By: TSLANE Subject:GN

Date: 4/24/2000 Entered By: TSLANE Subject:GN

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Pltf has filed cert of readiness & case may go to trial in june

Date: 4/28/2000 Entered By: TSLANE Subject:GN

1050am called counsel, lou-
told him i was going to call pippa directly to try & get joint offer
s out reserving the right to litigate cov issue after
he really has not been doing much on case & will have moira call me
to discuss value of mulligan case

Date: 5/01/2000 Entered By: TSLANE Subject:GN

1025AM CALLED IRA-LMTC ON PM

Date: 5/03/2000 Entered By: TSLANE Subject:GN

250pm ret counsel call, moira-
they had done eval on this case when they eval death cases but did
not have as much info on the wl & future wl claim
considering they felt the future wl claim was 200-300k they felt
the case was worth 600-800k
now their appears to be no future wl claim according to our voc exp
def thinks the claim is worth 200-400k
thinks the claim that pltf saw the other pltf's die - the conscie
ss of karen clifford - she knew them & had trauma trng & could not
help them - thinks that does increase the value of the claim
said that pltf mulligan will be a sympathetic witness
told her i was going to contact pipa & see if we could get something
worked out so we could get some offers out & agree to litigate after
the claims are resolved
told her i was going to try & work something out & then contact the
pltf attnys

Date: 5/03/2000 Entered By: TSLANE Subject:GN

335pm called def atny, mike pipa --lmtc on pm

Date: 5/05/2000 Entered By: TSLANE Subject:GN

255pm ret mike pipa call - lmtc on pm

Date: 5/05/2000 Entered By: TSLANE Subject:GN

320pm ret mike pipa call -
told him we are interested in discussing settlement
about ready to file dec action
told him interested in getting rid of the pltf's cases & getting
offers on table
told him i was looking at 800-1mil on the death cases & 150-200k on
mulligan case
does not think that would get it settled but agrees that is good
place to start

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He will call lincoln general & prob have the adj call me direct

=====

Date: 5/05/2000 Entered By: TSLANE Subject:GN

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345pm ret mike mcgovern @ lincoln general 800-876-3350 ext 256
said he has cov counsel retained to file dec action
they had proposed to settle the case & proceed to binding arb
told him we would be willing to try & resolve the underlying cases &
litigate the cov issue
this is hard coal mining cty - 30% unemploy rate
avg age of residents is 50s
they would consider agreeing to settling the cases & litigating the
dec action
address: 3350 whiteford rd york, pa 17402
claim #39737
fax #717-751-0165
email: mike.mcgovern@lincolngeneral.com
said to get ltr outlining what we are thinking & then he will review
& get back to me
his 1 condition is that we resolve this claim quickly
told him we are in process of filing dec & plan on proceeding w/the
dec as the tort claim progresses & get it all resolved asap

=====

Date: 5/10/2000 Entered By: TSLANE Subject:GN

=====

225pm called ira -- lmtc on pm

=====

Date: 5/10/2000 Entered By: TSLANE Subject:GN

=====

faxed proposal to lincoln general that we split it 50/50 & then
proceed w/dj to settle the cov issue

=====

Date: 5/10/2000 Entered By: TSLANE Subject:GN

=====

reviewed w/md & jp
have auth to settle the 2 death claims 500-750k
mulligan claim auth to settle 300-375k

=====

Date: 5/15/2000 Entered By: TSLANE Subject:GN

=====

1230pm [REDACTED]

[REDACTED]

[REDACTED]

=====

Date: 5/15/2000 Entered By: TSLANE Subject:GN

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Date: 5/16/2000 Entered By: TSLANE Subject:GN

930am called mike @ lincoln general -lmtc on pm (out of office 5/17)
930am ret counsel call, moira -
wanted status of where we were on neg & w/lincoln general
told her we had proposal to split 50/50 w/lincoln gen & waiting for
their response
have not called pltf atny until get response from lincoln general
no trial date - case management conf not set yet & that is when we w
ill get trial date & will be date certain & will let me know when
that is sched

Date: 5/17/2000 Entered By: TSLANE Subject:GN

400pm ret mike call @ lincoln general -- lmtc on pm

Date: 5/18/2000 Entered By: TSLANE Subject:GN

950am called mike @ lincoln general --
they are willing to do 50/50 split - not sure 1.5 mil is going to do
it but good start
asked him about opening offer & he wants to do conference call
next wk w/his atny & ours -- all 4 of us
said he will call pipa & i can call lou & we can talk later today
about time next wk to conf this

Date: 5/18/2000 Entered By: TSLANE Subject:GN

955am called counsel, tt lou --
said either am on mon or after 2 on tues
asked him about local counsel for ira on the dj
he will get couple people in mind & call ira w/suggestions of local
counsel to use
will call him when we get conf call set up

Date: 5/18/2000 Entered By: TSLANE Subject:GN

1020am ret mike call @ lincoln gen
pipa avail mon morn
lmtc on pm w/time but mon morn works for me & my counsel too
suggested 9am eastern time

Date: 5/18/2000 Entered By: TSLANE Subject:GN

1255pm ret mike call @ lincoln gen -- lm on pm
conf call set for 9am - asked him to go ahead & initiate it at 9am
eastern time - asked him to call all parties
1255pm called counsel, lou-
told him conf call set for mon morn at 9am
mike mcgovern will be initiating the call

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=====

he will be there & also calling ira now w/some suggestions for local
counsel

=====

Date: 5/22/2000 Entered By: TSLANE Subject:GN

800am conf call w/lou b, moira & mike mcgovern --
discussed schukiyill county - very high unemployment there
discussed values of the wd claims -- mcgovern thinks if we could
bring them in for 800,000 we would be doing well but thinks might
have to go more like 900-950k to get it settled - does not think
million dollar case
lou pointed out that nothing from pltf atny has indicated he will
settle for less than 1 mil but he has never had any offers to respon
d to
lou said pltf atny has tried to get the case set for trial couple
times but no luck
told him we thought top end more like 750
agreed starting offer \$500,000
delay damages - started 1 yr from when suit filed - april 96 cliffor
d case filed
delay damages start in april 97 (prime +1)
97-8.25
98-8.5
99-7.75
25% delay damages & by october 30%
can stop the delay damages by making qualifying offer - if verdict
does not exceed verdict by 125% then only liable up to day offer
made
mulligan case - he does not see jury buying the long term wl
mcgovern was lower on her case at 250k - lou was 350k
there is no demand on mulligan - thinks we should start lower at
75-100k according to lou
mcgovern said he is not afraid of tryin this case w.o the death case
s bc pltf is not local & they take care of their own
no longterm wl, no demand, cerv fusion - conservative county so lou
thinks we should start at 75-100k
lou will make the offers -- will start at 75-100 on mulligan &
then will open 500 on death cases as lump & they decide how to
distribute
he will make some phone calls & let us know

Date: 5/22/2000 Entered By: TSLANE Subject:GN

sent reins update

Date: 5/31/2000 Entered By: TSLANE Subject:GN

940am called counsel, lou-lmtc on pm

Date: 5/31/2000 Entered By: TSLANE Subject:GN

940pm counsel called, lou-

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has tt pltf atny about 3 times - has offered 500k
said he was not interested & said he would tt his clients then calle
d back & asked what went into our eval but said he would tt his clie
nts
has tt all the adminstrators -- formal demand 2million - said he had
some flexibility
they want to wait until the pre trial to hear what # the judge puts
on the case & they will respect that more but does not
offered 75k on mulligan - pltf faxed back ltr that they would
accept 175k -- he would recom 125k but did not think he could get
the pltf to take it unless the judge would tell her that
will see what happens w/that at the pretrial but it will clearly
settle
recd report by local path that indicates that there was no massive
head inj - no reason to believe mr clifford that he was immed
unconscious & would take 1-2 min to go unconscious
since he broke his back he would have been paralyzed & would have
had time to appreciate the fact he was paralyzed
we do not have this report although dated 4/99 was never disclosed
although pltf atny said he disclosed this to us
he will fax me the report
have 1st report from pltf exp that said there was no conscious pn &
suffering & if not settled then we will try & retain him as our exp
wed june 7 1030am central time -- will prob not hear from them until
1 hr later if not longer -- will need to be avail by phone

Date: 6/02/2000 Entered By: TSLANE Subject:GN #

...1120am called mike @ lincoln general --
out of office until 6/12 -- lmtc on pm re: pretrial on 6/7

Date: 6/06/2000 Entered By: TSLANE Subject:GN

825am called counsel, moira - lmtc on pm

Date: 6/06/2000 Entered By: TSLANE Subject:GN

1005am ret counsel call, moira- tt helen
she is not in the office today
lm for lou tc

Date: 6/06/2000 Entered By: TSLANE Subject:GN

counsel called, lou
confirmed pretrial is at 1130 eastern time/1030 our time
said it will prob be closer to an hour b4 we hear from him
said he will call me when it is over to let me know what happened
told him mcgovern on vaca til next mon & not sure about auth from
lincoln to settle cases
he will ck w/pipa & get back to me

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Date: 6/06/2000 Entered By: TSLANE Subject:GN #

counsel called, lou-lm on pm
tt pipa sec - there is another adj that has auth & will be handling
either the adj or pipa will be calling me

Date: 6/06/2000 Entered By: TSLANE Subject:GN

145pm ret sandy ikama @ lincoln general - 800-876-3350 ext 244
she said they are willing to put up their policy limits tomorrow
then resolve the cov issues
she will be around all day if need to discuss
told her mulligan will settle somewhere btwn 125-175k - well below
what any of us eval at so just matter of the death cases

Date: 6/07/2000 Entered By: TSLANE Subject:GN

1145am counsel called, lou -
heard contentions about the case - does not think that the punitive
damage case will fly but also does not like our defense on compensa-
tory damages that this is not a very nice family
said the conscious pn & suffering of karen clifford is going to
bring a lot of money from jury - very impressed w/her conscious pn
& suffering claim & thinks it will bring big money from jury
said pltf atny is going to claim privilege & refuse to allow the
original pathologist who test that clmt robert clifford had no
conscious pn & suffering & if successful then we are going to find
our own expert & file motion w/judge to allow late exp but clearly
even if robert had any conscious pn & suffering it was very short-
only couple minutes -- said he is going to look into the case that
would allow pltf atny to claim privilege
if does not settle then will rule on motions in limine w/regards to
punitives, etc & then would be willing to do another settlement conf
said judge is putting together ltr w/his recommendations on settlement
values & that will be sent out in wk or so & said he will let us
know as soon as he receives
said he thinks judge will come in in low hundreds on mulligan & we
can settle that but said judge is going to be sig higher on the
death cases than we had eval them -- said he thinks the karen cliffo
rd claim is worth lot of money
will let me know asap when gets the recom from judge
trial date sometime in oct or dec so nothing in near future
said the judge was very familiar w/case & obvious he had read
everything provided to him in depth

Date: 6/15/2000 Entered By: TSLANE Subject:GN

910am ret counsel call, lou-
recd ltr from judge - will fax it to me
700k on karen clifford & 300k for robert clifford & 125k on mulligan
felt mulligan was straightforward - worked sig # of hours & decrease
ours & ongoing pn

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Clifford claim very substantial - thinks offer serious but not enough - does not believe that pltf would get to jury on punitive but 2 people dead & delay damages
feels there would be large veh bc pltf's doing nothing more than sitting at red light & then were crushed by truck
diff btwn is the pn & suffering claim - children of mrs clifford have much greater claim than mr clifford's children
puts emphasis on the orphaned children & attacking the parenting would prob backfire when talking of orphaned children
would recom township & emr make only nominal offer
he is going to wait couple days & then contact pltf's re: settlement told him to dump the mulligan case for whatever we can get it
he will also fu w/pipa to make sure they are on board to get this resolved for judges figures
told him did not have auth to settle the clifford's claim for that money but felt could get it if we can get it settled
local counsel just indicated he got the stuff from ira & dj should be filed asap

Date: 6/15/2000 Entered By: TSLANE Subject:GN

discussed w.md - auth to settle for judges recom
205pm called counsel, lou
told him he had auth to settle for judges recom

Date: 6/19/2000 Entered By: TSLANE Subject:GN

trial date 10/9/00 w/jury selection on fri 10/6
the issue of punitive damages will be heard on 10/6 also & clifford pltf atny pushing hard that the jury hear about punitives

Date: 6/26/2000 Entered By: TSLANE Subject:GN

counsel has made 125k offer on mulligan - pltf atny has said he will talk to his client but seems to have no control over her

Date: 6/27/2000 Entered By: TSLANE Subject:GN

745am called counsel, lou-
spoke to clifford atny on fri - not optimistic that 1 mil is going to settle it - had tt rep of both estates - had thought judge would make lump sum & he had the reps under the assumption that it would be lump sum & split 50/50
they have sense that they will not get reason until judge rules on punitive damage claim -- if denied then might get reason after that
pltf atny first obstacle is getting over the money being split 50/50
said he would be mtg w/his clients in next 2 wks - briefs are almost due at that time & will be working on those -- pltf atny said he would be back in touch in next couple wks
told him i have no prob paying settlement in lump sum & they split it up - he will let pltf know that
pltf atny also said he would prob not recom the judges # but somethi

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g more like 1.5 million -- counsel said he could recom that but we
would not be willing to pay that based on judges recom
waiting to hear back from both pltf atnys

Date: 6/28/2000 Entered By: TSLANE Subject:GN

motions in limine due by 7/7 & briefing no later than 7/17
there is briefing sched entered on punitive claims also - counsel
will be filing brief on those issues

Date: 7/05/2000 Entered By: TSLANE Subject:GN

1045am ret counsel call, lou--
atny for cliffords really hung up on the punitive damages
he said he would talk to his clients/recommend 1mil + delay damages
he cannot say that his clients would take it
delay damages are approx 275,000
he has not put the 1 mil on the table yet & decided he should go bac
k & tell pltf we are willing to pay the judges recom & see what he
says - told him i need firm number but not willing to pay the 1 mil
plus the delay damages
he will tt atny on cliffords cases & let me know response
mulligan atny has asked us to send the release for \$125,000 - not
sure if it is settled so they have asked him in cover ltr if case
is actually settled or not

Date: 7/11/2000 Entered By: TSLANE Subject:GN #

recd counsel's motions in limine that have been filed

Date: 7/14/2000 Entered By: TSLANE Subject:GN

840am mike @ lincoln general called -
told him we had release out on mulligan claim - not sure but appare
d that one was going to settle
told him clifford atny said he would recom 1 mil plus delay damages o
f \$275,000 & at that time we told him we would pay what the judge
recom
will let him know once i hear more

Date: 7/17/2000 Entered By: TSLANE Subject:GN

offer of 1 mil has been made to clifford atny - waiting for response

Date: 7/19/2000 Entered By: TSLANE Subject:GN

1155am ret counsel call, moira - lmtc

Date: 7/19/2000 Entered By: TSLANE Subject:GN

230pm ret counsel call, moira --
mulligan case settled - has release & needs to get settlement ck

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suggested that we might want to call lincoln general to confirm
then send cks to her - there is required settlement notice that
needs to go w/them
settled for 125,000
briefing the punitive issue & does not think will settle until the
punitives are ruled on
if ruled in our favor thinks they may take the million -- said that
will prob not be ruled on until well into aug or poss sept
the city settled mulligan's pd claim - judge had suggested & they
handled

=====

Date: 7/19/2000 Entered By: TSLANE Subject:GN

called mike @ lincoln general - out of office until 7/24--lmtc on pm

Date: 7/25/2000 Entered By: TSLANE Subject:GN

mike mcgovern called-lm on pm
said he will send counsel ck for 1/2 but just needs ck lang & tax
id #
...faxed info to lincoln general
issued settlement ck & took remaining reserve & allocated to
mulligan units

=====

Date: 7/25/2000 Entered By: TSLANE Subject:RS

specified reserve to \$ 337500.00 for claimant #003
... CLIFFORD, KAREN CVG: C.S.L. LIABILITY (B.I. & P.D.)

=====

Date: 7/27/2000 Entered By: TSLANE Subject:GN

recd update - complaint has been filed for dj
only 1 party not served to date
venue probs -schuylkill cty has moved to middle dist from eastern
dist & currently working on getting it moved to middle dist
working on service & venue issues

=====

Date: 8/02/2000 Entered By: TSLANE Subject:GN

REC'D FORMAL OFFER OF 1,287,500 TO SETTLE THE CLAIM
...220PM CALLED MIKE @ LINCOLN GENERAL -
HIS PROB W/DELAY DAMAGES IS THAT MOST OF THE DELAY HAS BEEN ON THEIR
PART
SAID DEMAND NOT UNREASON
HE WOULD CONSIDER SPLITTING THE DELAY DAMAGES W/THEM & TRYING TO GET
THE CASE RESOLVED
HE IS FINE W/SPLITTING THE DIFF
...DISCUSSED W/JP - OK TO SPLIT THE DIFF
...230PM CALLED LOU-IS
TOLD HIM WE WANT TO SPLIT THE DIFF ON THE DELAY DAMAGES
HE WILL LET THEM KNOW WE DID NOT WANT TO PAY ANYTHING MORE THAN JUDG
RECOM BUT IN COMP WE WILL PAY 1/2

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WILL CALL PLTF & LET ME KNOW

=====

Date: 8/08/2000 Entered By: TSLANE Subject:GN

COUNSEL CALLED, LOU-LM ON PM
PLTF BOTTOM LINE 1,250,000 - WILL NOT SPLIT THE DIFF W/US

Date: 8/08/2000 Entered By: TSLANE Subject:GN

CALLED MIKE @ LINCOLN GEN --
OUT OF OFFICE UNTIL 8/10 -- LMTC ON PM

Date: 8/10/2000 Entered By: TSLANE Subject:GN

1250pm called mike @ lincoln general - lmtc on pm

Date: 8/10/2000 Entered By: TSLANE Subject:GN

tt mike @ lincoln general -
he felt that the lost offer was take or leave it & since they left
it we should proceed
said we felt we need to settle the case & i had auth to settle it
he will talk to his people & let me know if they are willing to go
1/2
told him they could give us the rest of their limits & then we would
make up the diff to settle the cliffords case & then we would dismiss
dj & would be done
said they want their money back from us & not willing to do that
he really thinks they will prevail on the dj & we will owe them
back everything
told him i did not agree but if not interested then lets settle
clifford & litigate the coverage
he will get back to me

Date: 8/10/2000 Entered By: TSLANE Subject:GN

205pm called counsel, lou - lm on pm working w/lincoln general to
see what they wanted to do & would be back in touch when heard back
from them

Date: 8/10/2000 Entered By: TSLANE Subject:GN

340pm mike @ lincoln general called -
they will go 1/2 up to the 1.25 mill
they want to proceed w/dj - are not interested in tendering the rest
of their limits.

Date: 8/10/2000 Entered By: TSLANE Subject:GN

340pm called counsel, lou-
told him ok to 1.25 but wanted to try & get it for less
told him if it looked like we were losing settlement to just pay it

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but to try for something less
he will call pltf & let me know

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105pm

Date: 8/22/2000 Entered By: TSLANE Subject:GN

counsel called, lou-
settled for 1,225,000 - pltf atny sending confirming ltr & thinks
will be equally split btwn the 2 claims
will have to be ct approved due to death claims & 1 child is still
minor
will let me know when have hearing for approval & needs no cks until
ct approved-thinks hearing date until september

Date: 8/22/2000 Entered By: TSLANE Subject:GN #

805am called mike mcgovern @ lincoln general -
let him know case settled for 1,225,000 pending ct approval
no cks needed until then

Date: 8/22/2000 Entered By: TSLANE Subject:GN

recd update on dj - working on getting all summonses and complaints
served -- addressing venue issues & dealing w/requests for dismissal
s from pltf atny in underlying action

Date: 8/22/2000 Entered By: TSLANE Subject:GN

1100am

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Date: 8/22/2000 Entered By: TSLANE Subject:GN #

145pm ret counsel call, moira -
paperwork in the process - pltf will have to petition the ct for
approval
has tt pltf atny & are using the judges recom on the settlement btwn
the 2 estates
857,500 for karen clifford
367,500 for robert clifford
will be sending releases out today

Date: 8/28/2000 Entered By: TSLANE Subject:GN

Date: 8/31/2000 Entered By: TSLANE Subject:GN

Date: 9/11/2000 Entered By: TSLANE Subject:GN #

recd order for discount on mulligan case

Date: 9/11/2000 Entered By: TSLANE Subject:GN

1125am ret cheryl lipsius call -- lmtc

Date: 9/11/2000 Entered By: TSLANE Subject:GN

Date: 9/20/2000 Entered By: TSLANE Subject:GN

recd final invoice on mulligan

Date: 10/04/2000 Entered By: TSLANE Subject:GN

220pm called counsel, lou -
pltf atny has not yet filed the papers - has to get signature from
all family members b4 he can file -- thinks still 30-60 days from
finalizing settlement & issuing cks

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Date:10/09/2000 Entered By: TSLANE Subject:GN #

recd final release signed by mulligan

Date:10/18/2000 Entered By: TSLANE Subject:GN

recd signed releases on the cliffords claims-pltf has now filed 2 petitions for compromise of minor robert cliffords action & approval by ct of settlement of the estate cases & distrib btwn the 2 estates judge will sched hearing & we will be required to attend

Date:11/20/2000 Entered By: TSLANE Subject:GN

830am counsel called, moira --
judge just ruled on the papers so they did not have to appear for hearing
said lincoln general will be sending their cks direct to the pltf
told her i need to know when that is recd so we can dismiss the dj
she will let me know
they will get the final dismissal - pltf had not signed the original so she sent it back

Date:11/20/2000 Entered By: TSLANE Subject:GN

835am counsel called, moira --
has tt pltf office - they tt pipa last wk & was somewhat upset that he had not recd the cks from carrier - would hold off on dismissing the dj for rt now since lincoln general has not issued their cks

Date:11/28/2000 Entered By: TSLANE Subject:GN

320pm called counsel, moira - lmtc

Date:11/28/2000 Entered By: TSLANE Subject:GN

320pm counsel called, moira --
tt pltf atny yesterday & has not recd the cks
lincoln general had asked for pltf atny tax id # last wk
said the settlement cks should be recd soon - pltf will let her know when he receives the cks & then she will file the final dismissal order

Date:11/29/2000 Entered By: TSLANE Subject:GN

RECD ORDER TO SETTLE DISCON & END THE MULLIGAN CASE

Date:12/01/2000 Entered By: TSLANE Subject:GN

counsel called, moira - lm on pm
pltf has settlement cks from lincoln general - things should be finalized soon

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Date:12/08/2000 Entered By: TSLANE Subject:GN

recd copy of prec to discont sent to ct

Date:12/08/2000 Entered By: TSLANE Subject:GN

Date: 1/16/2001 Entered By: TSLANE Subject:GN

recd final billings - pd -- waiting on final billing from ira

Date: 1/19/2001 Entered By: TSLANE Subject:GN

50am called counsel ira -- lmtc on pm

Date: 1/26/2001 Entered By: TSLANE Subject:GN

845am called ira -- lmtc on pm

Date: 2/05/2001 Entered By: TSLANE Subject:GN

Date: 2/06/2001 Entered By: TSLANE Subject:GN

920am

Date: 3/08/2001 Entered By: TSLANE Subject:GN

900am

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Date: 3/26/2001 Entered By: TSLANE Subject:GN #

Date: 4/02/2001 Entered By: TSLANE Subject:GN

130pm mike mcgovern @ lincoln general called -
asked if there was any interest in walking away - told him we were
interested but needed their consent to dismiss the lawsuit
he will let his counsel know that will prob happen & call me to conf
irm once he talks to their acctg people

Date: 4/11/2001 Entered By: TSLANE Subject:GN

215pm mike mcgoven @ lincoln general called-lm on pm
they are in agreement to walk away from dj & close files
...called mike @ lincoln - lm on pm asking him to have his counsel
call ira & agree to volun dismiss this

Date: 4/24/2001 Entered By: TSLANE Subject:GN

945am called ira - lmtc on pm

Date: 5/24/2001 Entered By: TSLANE Subject:GN #

Date: 6/27/2001 Entered By: TSLANE Subject:GN

waiting on dismissal

Date: 7/11/2001 Entered By: TSLANE Subject:GN

300pm ira called on conf call w/in house counsel for lincoln general
al -- transfer has occurred but nothing else on litigation
he knows nothing of mcgovern's agreement to dismiss - claiming they
have never talked to mcgovern about this
he will go back & tt his supervisor & let him know what has transpir
ed & see about getting an agreement to dismissing the dj & walking
away & closing files
al will let ira know if they will agree to volun dismissal - mcgover
n no longer there
(al miller is the general counsel now handling)
al is in house counsel for lincoln

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Date: 8/14/2001 Entered By: TSLANE Subject:GN #

1015am [REDACTED]

Date: 8/15/2001 Entered By: TSLANE Subject:GN

counsel called, lou bricklin
insd called him & very upset because they were just served w/3rd
party complaint - insd wants him to defend them
hazel sinclair is now deceased
told him i have not seen the complaint & not sure we owe them defens
n this but would ck into it & get back him

Date: 8/16/2001 Entered By: TSLANE Subject:GN

recd email copy of ira's response to lincoln general

Date: 8/16/2001 Entered By: TSLANE Subject:GN

Date: 8/16/2001 Entered By: TSLANE Subject:GN

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920am called counsel, lou -
he has portions of the 3rd party complaint
told him we are going to defend woolever -his concern is any conflict
he might have
hazel sinclair is now deceased & thinks he might be wit on this
he will get ext on this & then we can work out what we are going to
do

Date: 8/16/2001 Entered By: TSLANE Subject:GN

discussed w/md - have decided that insd needs their own counsel
cannot defend them in a lawsuit that we started

Date: 8/16/2001 Entered By: TSLANE Subject:GN

tt lou
let him know not defending insd
asked him to get 30 day extension for insd to find counsel & get
ans filed
told him sending insd ltr directly
will let me know if not able to get the ext

Date: 8/16/2001 Entered By: TSLANE Subject:GN

faxed ltr to isnd

Date: 9/19/2001 Entered By: TSLANE Subject:GN

emailed ira asking for update

Date:10/17/2001 Entered By: TSLANE Subject:GN

emailed ira for update

Date:10/17/2001 Entered By: TSLANE Subject:GN

Date:11/30/2001 Entered By: TSLANE Subject:GN

Report No. DAR030
(CXDM001/CXDM003)

NORTHLAND INSURANCE COMPANIES
CLAIM FILE NOTES
Printed: TSLANE

Page 32
Date 12/05/01

Policy.: 21 TF209197 000002

Print all claim file notes entered

Date:12/03/2001 Entered By: TSLANE Subject:GN

Date:12/05/2001 Entered By: TSLANE Subject:GN

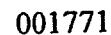
sent complete claim file & uw file to counsel

TRANSACTION REPORT										P.01
										MAY-10-00 WED 05:13 PM
DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP		
MAY-10	05:12 PM	917177510165	48"	1	SEND	OK	350			
TOTAL :						48S	PAGES:	1		



Northland Insurance Company Northland Casualty Company Northfield Insurance Company

Mailbox This is a follow-up to ...





Northland Insurance Companies

 An Associates Company

Northland Insurance Company Northland Casualty Company Northfield Insurance Company

Fax Number (651) 688-4170

Telefax Transmission - Date: May 10, 2000

Attention: Mike McGovern

Fax Number: 717-751-0165

Re: Our Insured: Woolever Brothers Claim Number: TF209197-04
Date of Loss: 11/17/95 Your File Number: 39737

Number of Pages (Incl. Cover): 1

Comments:

Mike - This is a follow-up to our telephone conversation on May 5, 2000.

We are in the process of filing a declaratory judgment action regarding the above matter.

However, we would like to try and resolve the underlying claims at the same time. We propose that we each pay half of the settlements of the underlying claims and proceed to dispose of the coverage issues with the declaratory judgment action that is being filed. Please review and call me to discuss at your earliest convenience.

If you have any questions, I can be reached at 651-688-4716.

By: Traci E. Slane 651-688-4716
Senior Claims Examiner

JURISDICTION AND VENUE

4. Admits the allegations contained in paragraph 4 of the cross-claim.
5. Admits each and every allegation contained in paragraph 5 of the cross-claim.

FACTUAL BACKGROUND

6. No response required.
7. Admits the allegations contained in paragraph 7 of the cross-claim except knowledge or information sufficient to form a belief as to whether the attached Exhibit A is a true and correct copy of the Lincoln General Policy.
8. Admits the allegations contained in paragraph 8 of the cross-claim.
9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the cross-claim.
10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the cross-claim.
11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the cross-claim.
12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the cross-claim.
13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the cross-claim.
14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the cross-claim.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the cross-claim.

16. Denies the allegations contained in paragraph 16 of the cross-claim.

17. Denies the allegations contained in paragraph 17 of the cross-claim.

18. Denies the allegations contained in paragraph 18 of the cross-claim.

19. Denies the allegations contained in paragraph 19 of the cross-claim.

20. Denies the allegations contained in paragraph 20 of the cross-claim.

21. Denies the allegations contained in paragraph 21 of the cross-claim except states that upon information and belief, on November 17, 1995 the tractor and trailer driven by Statts was involved in an accident in Pennsylvania.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the cross-claim except states that upon information and belief, on November 17, 1995 the tractor and trailer driven by Statts was involved in an accident with a vehicle operated by Robert Clifford and a vehicle operated by Sherill Mulligan and that the accident resulted in the deaths of Karin Clifford and Robert Clifford.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the cross-claim except state that upon information and belief, as a result of the accident, Sherill Mulligan allegedly suffered personal injuries.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the cross-claim except state that upon information and belief, at the time of the accident Woolever's placards were affixed to the tractor.

25. Admits the allegations contained in paragraph 25 of he complaint.

26. Admits the allegations contained in paragraph 26 of he complaint.
27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the cross-claim.
28. Admits the allegations contained in paragraph 28 of he complaint.
29. Admits that the Northland policy provides \$2,000,000 in liability coverage but deny its applicability to the instant matter and refers to the policy itself for all its terms, conditions and provisions.
30. Admits the allegations contained in paragraph 30 of he complaint.
31. Denies allegations contained in paragraph 31 of he complaint.
32. Denies the allegations contained in paragraph 32 of he complaint.
33. Denies the allegations contained in paragraph 33 of he complaint.
34. Denies the allegations contained in paragraph 34 of he complaint.
35. Denies knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in paragraph 35 of the cross-claim, except state that upon information and belief, the Lincoln General policy provided primary coverage to JHM, Statts and Woolever.
36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the cross-claim.
37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the cross-claim.
38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the cross-claim.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the cross-claim.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the cross-claim.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the cross-claim.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of the cross-claim.

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of the cross-claim.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the cross-claim.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the cross-claim, except refer to the to the transcripts of the depositions of Jay McCormick and Hazel Sinclair.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the cross-claim, except refer to the to the transcripts of the depositions of Jay McCormick and Hazel Sinclair.

47. Refer to the transcripts of the deposition of Hazel Sinclair.

48. Admits that Northland received a copy of the Permanent Lease but denies knowledge or information sufficient to form a belief as to the further allegations contained in paragraph 48 of the cross-claim.

49. Denies the allegations contained in paragraph 49 of the cross-claim.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the cross-claim.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of the cross-claim.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the cross-claim.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of the cross-claim.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of the cross-claim.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the cross-claim.

56. Denies the allegations contained in paragraph 56 of the cross-claim.

57. Denies the allegation that primary liability coverage for the accident belonged to Northland and denies knowledge or information sufficient to form a belief as to the truth of the further allegations contained in paragraph 57 of the cross-claim.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the cross-claim.

59. Denies the allegations contained in paragraph 59 of the cross-claim as conjecture and speculation that are inappropriate for a pleading.

60. Denies the allegations contained in paragraph 60 of the cross-claim as conjecture and speculation that are inappropriate for a pleading.

61. Denies the allegations contained in paragraph 61 of the cross-claim.

62. Denies the allegations contained in paragraph 62 of the cross-claim.

COUNTERCLAIM AGAINST NORTHLAND

63. Admits the allegations contained in paragraph 63 of the counter-claim.

64. Admits the allegation contained in paragraph 64 of the counter-claim.

JURISDICTION AND VENUE

65. Admits the allegation contained in paragraph 65 of the counter-claim.

66. Admits the allegation contained in paragraph 66 of the counter-claim.

COUNT I

67. In response to the allegations in paragraph 67, Northland repeats and re-alleges each and every response to the allegations set out in paragraphs 1 through 62 of the cross-claims.

68. Denies the allegation contained in paragraph 68 of the counter-claim.

69. Denies the allegations contained in paragraph 69 of the cross-claim.

COUNT II

70. In response to the allegations in paragraph 70, Northland repeats and re-alleges each and every response to the allegations set out in paragraphs 1 through 62 of the cross-claims.

71. No response required.

72. Admits the allegation contained in paragraph 72 of the counter-claim and refers to the policy itself for all its terms, conditions and provisions.

73. Denies the allegation contained in paragraph 73 of the counter-claim as being out of context and refers to the policy itself for all its terms, conditions and provisions.

74. Denies the allegation contained in paragraph 74 of the counter-claim.

75. Denies the allegations contained in paragraph 75 of the counter-claim.

76. Denies the allegation contained in paragraph 76 of the counter-claim as being out of context and refers to the policy itself for all its terms, conditions and provisions.

77. Denies the allegation contained in paragraph 77 of the counter-claim.

78. Denies the allegations contained in paragraph 78 of the counter-claim as being incomplete and out of context and refers to the policy itself for all its terms, conditions and provisions.

79. Denies the allegations contained in paragraph 79 of the counter-claim as being incomplete and out of context and refers to the policy itself for all its terms, conditions and provisions.

80. Denies the allegations contained in paragraph 80 of the counter-claim.

81. Denies the allegation contained in paragraph 81 of the counter-claim.

82. Denies the allegations contained in paragraph 82 of the counter-claim.

83. Denies the allegations contained in paragraph 83 of the counter-claim.

84. Denies the allegations contained in paragraph 84 of the counter-claim.

85. Denies the allegations contained in paragraph 85 of the counter-claim.

COUNT III

86. In response to paragraph 86, Northland repeats and re-alleges each and every response above to the allegations set out in paragraphs 1 through 62 of the cross-claims and paragraphs 63 through 85 of the counterclaim.

87. No response required.

88. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of the counter-claim and refers questions of law to the Court.

89. Denies the allegations contained in paragraph 89 of the counter-claim.

90. Denies the allegations contained in paragraph 90 of the counter-claim.

91. Denies the factual allegations contained in paragraph 91 of the counter-claim.

COUNT IV

92. In response to paragraph 92, Northland repeats and re-alleges each and every response to the allegations set out in paragraphs 1 through 62 of the cross-claims and paragraphs 63 through 92 of the counterclaims.

93. No response required.

94. Admit that both policies contain apportionment provisions but deny their applicability to the instant matter and refers to the policy itself for all its terms, conditions and provisions.

95. Denies the allegations contained in paragraph 95 of the counter-claim.

96. Denies the allegations contained in paragraph 95 of the counter-claim.

- 97. Denies the allegations contained in paragraph 97 of the counter-claim.
- 98. Admit the allegations contained in paragraph 98 of the counter-claim.
- 99. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 99 of the counter-claim.
- 100. Denies knowledge or information sufficient to form a belief as to the truth of the allegations that Lincoln General paid any sums to defend the Clifford and Mulligan actions.
- 101. Denies the allegations contained in paragraph 101 of the counter-claim.
- 102. Denies the allegations contained in paragraph 102 of the counter-claim.
- 103. Denies the claim that Lincoln General is entitled to recover any sums from Northland.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

- 104. Lincoln General's counterclaim fails to state a cause of action against Northland.

SECOND AFFIRMATIVE DEFENSE

- 105. Lincoln General's counter-claim against Northland barred by the doctrine of "Accord and Satisfaction" in that the parties agreed to resolve that claims that are asserted herein.

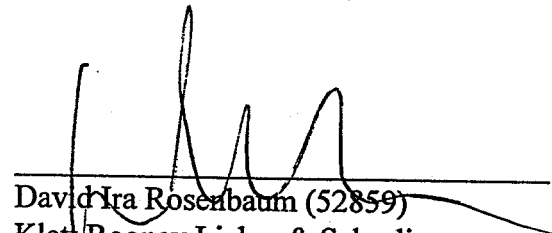
THIRD AFFIRMATIVE DEFENSE

- 106. To the extent that Lincoln General's allegations of fraud and/or material mis-representation by Woolever Brothers Transportation, Inc. and J.H.M. Enterprises, Inc. are true, then Lincoln General's claims against Northland are barred since Northland's policy provides no coverage in the case of fraud and/or material misrepresentation.

WHEREFORE, Plaintiff, Northland, demands judgment dismissing the counterclaim of defendant, Lincoln General Insurance Company, along with such other further relief as this Court may deem just and proper.

KLETT ROONEY LIEBER & SCHORLING
Attorneys for Plaintiff Northland Insurance Co.

By:



David Ira Rosenbaum (52859)
Klett, Rooney Lieber & Schorling
Two Logan Square
18th And Arch Streets, 12th Floor
Philadelphia, PA 19103
215-567-7507 (office)

OF COUNSEL:

Ira Lipsius, Esquire
SCHINDEL, FARMAN & LIPSIUS LLP
225 West 34th Street
New York, New York 10122
(212) 563-1710

Attorneys for Plaintiff Northland
Insurance Company

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

NORTHLAND INSURANCE COMPANY,

Plaintiff,

V.

No. 1:01-CV-763

LINCOLN GENERAL INSURANCE COMPANY,
J.H.M. ENTERPRISES, INC., VERNICE L.
STATTS, ROBERT E. KRAPF and UTE L.
HETLAND CLARK, as Administrators of the
Estate of Karin Clifford and ROBERT E. KRAPF
and PATRICIA R. CLIFFORD, as Administrators
of the Estate of Robert R. Clifford, SHERRILL J.
MULLIGAN, DENIS A. MULLIGAN,

Defendants.

CERTIFICATE OF SERVICE

I, David Ira Rosenbaum, certify that on October 9, 2001, a copy of an Amended

Answer to Counter-Claim was served Via Federal Express upon:

Jonathan H. Rudd, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108

Charles M. Miller, Esquire
Rubright, Domalakes, Troy & Miller
P.O. Box 9
Law Building
Frackville, PA 17931

Joseph R. Musto, Esquire
10 W. Fourth Street
Williamsport, PA 17701-6206

Andrew R. Spiegel, Esquire
3901 - A Main Street
Second Floor
Philadelphia, PA 19127

DAVID IRA ROSENBAUM, ESQUIRE

AFFIRMATION OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Lorienton N.A. Palmer, being duly admitted to practice in the courts of the state of New York, affirms:

I am an associate of the firm of Schindel, Farman & Lipsius LLP, counsel for plaintiff Northland Insurance Company with offices at 225 West 34th Street, in the City of New York, County of New York, New York.

On Thursday, May 23, 2002, I served the attached Affidavit In Support of Motion of Northland Insurance Company for Summary Judgment, Proposed Order and Statement of Undisputed Material Facts In Support of Plaintiff Northland Insurance Company's Motion for Summary Judgment on the firms:

Jonathan H. Rudd, Esq.
Attorney for Lincoln General
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108-11661

Andrew R. Spiegel, Esq.
Attorney for Woolever
3901-A Main Street 2nd Floor
Philadelphia, PA 19127

by personally delivering a true and accurate copy of the same to the custody and control of the Federal Express, in a post paid and sealed envelope addressed as above, to a representative of Federal Express at the office located at 34rd Street and Eight Avenue, within the Borough of Manhattan, New York, New York.

Dated: New York, New York
May 23, 2002

W. Palmer

Lorienton N.A. Palmer